



**House
Legislative
Analysis
Section**

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**REMOVAL OF MEMORIAL GRAVE
MARKERS: INCREASE FINES**

**House Bill 5496 with committee
amendments
First Analysis (2-27-96)**

**Sponsor: Rep. Alan Cropsey
Committee: Senior Citizens and Veterans
Affairs**

THE APPARENT PROBLEM:

Grave sites of veterans of the armed services are often designated as such by the use of memorial markers and/or flag holders. On holidays such as Memorial Day and Veterans' Day, it is a common practice for family members, friends, or members of veteran's groups to place U.S. flags at the graves of the veterans in honor of their service to the country. Though current law prohibits removing, destroying, defacing, or carrying away a flag holder, U.S. flag, or other memorial flag from the grave of a veteran, it is reported that often the grave sites are vandalized and the flags and markers stolen or defaced. Some people have reported seeing Civil War era grave markers for sale at swap meets and flea markets. Reportedly, these memorial markers are often the only marker at a grave site, as some graves do not also contain headstones. This is especially true in the case of Civil War veterans. Therefore, once a marker is removed, a grave may be left completely unmarked. In an attempt to discourage vandalism and theft of the memorial flags and markers, legislation has been proposed to increase the fine for violating the law.

THE CONTENT OF THE BILL:

Currently, to remove, destroy, deface, or carry away a flag holder, U.S. flag, or other memorial flag placed for memorial purposes at a grave of a veteran of the armed forces without authority from the person originally placing the flag is a misdemeanor punishable by a fine of \$5 to \$50, imprisonment for up to 90 days, or both. The bill would allow cemetery owners to also give permission for the removal of a flag or marker, and would prohibit possession of a flag or marker that had been removed illegally. The bill would also increase the maximum fine to \$500.

MCL 35.833

FISCAL IMPLICATIONS:

According to the House Fiscal Agency, the bill would have minimal state fiscal impact. The local fiscal impact would be indeterminate, as cost savings or revenue increases would be determined by enforcement at the local level. (2-26-96)

ARGUMENTS:

For:

Since a Civil War era memorial grave marker reportedly can be sold at swap meets and flea markets for upwards of \$25 each, the current maximum fine of \$50 is not a sufficient deterrent against theft or the purchase of markers illegally removed from grave sites. The stiffer maximum fine of \$500 imposed by the bill would better serve as a deterrent for violations under the bill. Keeping the minimum fine low gives discretion to courts to distinguish between the minor offenses of younger offenders and the more serious charges of vandalism and destruction of grave sites and wilful theft of markers for personal gain.

However, though the bill would be a good beginning, it does not go far enough. Rather than give a slap on the wrist with a \$5 fine to juveniles guilty of minor vandalism, perhaps youthful offenders could be required to do community service, such as assisting veteran's groups in various projects or helping out at cemeteries by placing the flags for memorial holidays. In addition, with police agencies and courts backlogged with cases involving more serious crimes, there can be a tendency to overlook violations of law considered minor or of a non-violent nature. But, to the descendants of a veteran whose grave site has been vandalized, as well as to other veterans, the disregard some have towards honoring our nation's veterans is reprehensible. Therefore, enforcement of the bill's provisions would make the true difference in discouraging the present vandalism of the graves of Michigan veterans.

House Bill 5496 (2-27-96)

POSITIONS:

The American Legion is in support of the bill. (2-26-96)

A representative from the Sons of Union Veterans of the Civil War testified in support of the bill. (2-22-96)

A representative from the Michigan Cemetery Owners testified in support of the bill. (2-22-96)

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.