

Legislative Analysis



UNIFORMS, BADGES, & INSIGNIAS OF FIRE DEPTS, LIFE SUPPORT AGENCIES, & MEDICAL FIRST RESPONDERS

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House Bill 5719 as enrolled
Public Act 405 of 2006
Sponsor: Rep. Bill Caul
House Committee: Judiciary
Senate Committee: Judiciary

Second Analysis (9-28-07)

BRIEF SUMMARY: The bill prohibits the unauthorized use, possession, sale, display, exhibition, furnishing, or wear of fire department, life support agency, or medical first responder uniforms, patches, insignias, and badges.

FISCAL IMPACT: To the extent that it increased the numbers of misdemeanor convictions, the bill could increase local costs of incarceration or misdemeanor probation supervision, both of which vary by county. To the extent that the bill led to increased collections of penal fine revenues, it could benefit local libraries, which are the constitutionally-designated recipients of those revenues.

THE APPARENT PROBLEM:

Last year, the Legislature enacted Public Act 314 to prohibit a person from certain activities involving police uniforms, patches, insignias, and badges and facsimiles of those objects. The new law was an attempt to stop the unauthorized sale and use of police paraphernalia that could be used to impersonate a law enforcement officer. There was discussion at the time about also making it a crime to use the uniforms, badges, insignias, etc. of fire departments, life support agencies, and medical first response services in an unauthorized manner. However, it was decided that due to technical difficulties in extending the legislation's provisions to cover these other professions, that separate legislation was needed.

THE CONTENT OF THE BILL:

The bill added new sections to the Michigan Penal Code (MCL 750.217g and 750.217h) to prohibit certain activities involving the use or possession of badges, patches, uniforms, emblems, insignia, logos, service marks, and other identification of organized fire departments, life support agencies, and medical first response services by non-members or employees. The bill took effect October 1, 2006.

Under the bill, a person could not sell, furnish, possess, wear, exhibit, display, or use the badge, patch, or uniform, or a facsimile, of any organized fire department, life support agency, or medical first response service unless one or more of the following apply:

- The person is authorized to receive or possess any of those materials by the chief officer of the organized fire department, life support agency, or medical first response service.
- The person is a member of the organized fire department, life support agency, or an employee of the medical first response service.
- The badge is a retirement badge and in the possession of the retired member of the organized fire department or retired employee of the life support agency or medical first response service.
- The badge, patch, or uniform belonged to a deceased member of the organized fire department, life support agency, or medical first response service and currently is in the possession of a spouse, child, or next of kin.
- The person receiving, possessing, exhibiting, displaying, or using a badge, patch, uniform, or facsimile is a collector and the badge, patch, uniform, or facsimile is possessed as part of a collection and is in a container or display case when being transported.
- The person is in the theatrical profession and wears the badge, patch, uniform, or facsimile while actually engaged in following that profession.

The bill would also prohibit any person, other than a member of an organized fire department, life support agency, or an employee of a medical first response service, from wearing or displaying the emblem, insignia, logo, service mark, or other identification of any organized fire department, life support agency, or medical first response service, or a facsimile of any of those items if:

1) The person represented himself or herself to another as being a member of that organized fire department or an employee of that life support agency or medical first response service; or,

2) the activity occurred in a manner that would lead a reasonable person to falsely believe that the organized fire department, life support agency, or medical first response service whose emblem, insignia, logo, service mark, or other identification or facsimile was being worn or displayed was promoting or endorsing a commercial service or product or a charitable endeavor.

A violation of the prohibitions created by the bill would be a misdemeanor punishable by imprisonment for not more than 93 days and/or a fine of not more than \$500.

"Facsimile" would include both an exact replica of an existing item and a close imitation of an existing item. "Life support agency" and "medical first response service" are defined in the Public Health Code (MCL 333.20906) and include, respectively, ambulance operations and aircraft transport operations, and licensed individuals authorized by medical control to respond to the scene of an emergency before an ambulance. "Organized fire department" would mean that term as defined in Section 1 of the Fire Prevention Code (MCL 29.1) and includes any lawfully organized firefighting force in this state.

BACKGROUND INFORMATION:

Public Act 314 of 2005 (enrolled Senate Bill 444) was enacted to prohibit similar activities involving police uniforms, patches, and badges.

ARGUMENTS:***For:***

People trust those in uniform or using the badges and insignias of fire fighters, ambulance drivers, paramedics, emergency medical technicians, and others when faced with an emergency. However, there have been some reports of people using these identifying badges and uniforms to gain entry into residences to commit criminal acts, and in other circumstances to prey on the unsuspecting. The bill is similar to legislation recently enacted that applies to uniforms, badges, etc. of police officers. Under the bill, it would be a misdemeanor, punishable by fines and/or jail time, for using the clothing and equipment, or replicas of these items, of organized fire departments, life support agencies, or medical first response services to victimize others. However, exemptions for legitimate uses are included, such as for actors during a theatrical performance or for collectors that keep items and display them legally.

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■ 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.