

# Legislative Analysis



## PROHIBITION ON INSIGNIAS ON MOTOR VEHICLE: REPEAL

Mary Ann Cleary, Director  
Phone: (517) 373-8080  
<http://www.house.mi.gov/hfa>

House Bill 4930 (reported from committee without amendment)

Sponsor: Rep. Tom Leonard

Committee: Criminal Justice

*(Enrolled as PA 158 of 2013)*

### First Analysis (9-24-13)

**BRIEF SUMMARY:** The bill would decriminalize displaying an emblem or insignia of a benevolent, charitable, humane, or fraternal entity for which a person was not a member on a motor vehicle.

**FISCAL IMPACT:** The bill would repeal a provision in law that was declared unconstitutional by the state court of appeals more than 30 years ago.

### THE APPARENT PROBLEM:

Since the days of the depression, a law has been on the books that makes it a misdemeanor offense for a person to display an insignia or emblem of a charitable, humane, benevolent, or fraternal association or organization on the person's motor vehicle unless the person is also a member of that entity (MCL 430.53). Presumably, the statute was intended to protect those entities, and the general public, from anyone who used the display of such an emblem or insignia on a vehicle to defraud or mislead others for some reason (e.g., for personal gain). However, the language of the statute does not explicitly state that point. Thus, the sole act of displaying a Girl Scout or Benevolent and Protective Order of Elks bumper sticker without actually being a member of either organization could subject someone to a criminal conviction.

In the late 1970s, a man was stopped by the police for defective equipment. The car had a POAM (Police Officers Association of Michigan) sticker on the windshield, and the driver admitted neither he nor anyone in his family were police officers. The man was ticketed and convicted of a violation of MCL 430.53 in district court. He appealed the decision to circuit court, which overturned the conviction based on the statute being unconstitutionally overbroad on its face. On appeal to the Michigan Court of Appeals, the circuit court decision was upheld and the statute invalidated. [*People v Blauvelt*, 91 Mich App 380; 283 NW 2d 745 (1979)]

Since the *Blauvelt* decision, the prohibition on nonmembers of charitable or fraternal entities displaying stickers on their vehicles has not been enforceable by law enforcement officers even though the statute remains on the books. Though the Legislature could have amended the provision to narrow the scope of the prohibition to conduct intended to defraud, thus addressing the overbreadth issue, it has not done so. Legislation is now being offered to repeal the prohibition.

## **THE CONTENT OF THE BILL:**

Under Section 3 of the Protection of Names and Emblems Act (Public Act 269 of 1929), it is unlawful to display or allow to be displayed on one's motor vehicle any emblem or insignia of any organization, association, fraternity, lodge, club or order of which the owner of the motor vehicle is not a member. The act provides an exception if the emblem or insignia is displayed solely for the purposes of participation in a public parade, or at a public fair, exhibit, or carnival. A person who violates the prohibition could be found guilty of a misdemeanor punishable by no more than 90 days in jail and/or a \$100 fine, and could be enjoined by a court to stop displaying the emblem or insignia on the motor vehicle.

House Bill 4930 would amend the Protection of Names and Emblems Act to repeal Section 3 (MCL 430.53), which contains the prohibition on a non-member displaying on his or her motor vehicle the emblem or insignia of the listed entities.

## **ARGUMENTS:**

### ***For:***

The bill would repeal a provision in law that was declared unconstitutional by our state appellate court more than 30 years ago. Because the actual wording of the provision prohibits a type of free speech without providing a compelling state interest, and because it is not limited to conduct with a specific intent or purpose (such as defrauding the public for personal gain), the *Blauvelt* court held that the prohibition was overbroad and therefore unconstitutional on its face. Since that decision, police officers have not been able to write citations under the statute. The bill therefore would simply remove from the law books a provision made obsolete decades ago.

### ***Against:***

The provision to be repealed is part of an act meant to protect the names and insignias/emblems of entities that serve charitable, benevolent, or fraternal interests and, by inference, to protect the public from persons who would use such emblems for fraudulent purposes. If MCL 430.53 is so vague as to be declared unconstitutional, perhaps it would be preferable to narrow the language to achieve the intent of the original authors. Indeed, in a June 2006 Michigan State Police Legal Update, state troopers are reminded that MCL 430.53 was invalidated in 1979 and "should not be enforced until amended by the legislature, even though the invalid version is still 'on the books'." Both the MSP Legal Update and the *Blauvelt* decision itself hints that the provision could be fixed by amendment short of repeal, such as by differentiating between a legitimate and a nonlegitimate use by a nonmember of an organization's insignia or emblem.

## **POSITIONS:**

No positions were offered on the bill.

Legislative Analyst: Susan Stutzky

---

■ 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.