

SUBJECT: Increased penalty for impersonating peace officer to commit other crimes

COMMITTEE: Law Enforcement — favorable, without amendment

VOTE: 6 ayes — Driver, Latham, Allen, Frost, Ortiz, Vo

0 nays

1 absent — West

WITNESSES: For — (*Registered, but did not testify*: Sunni Mitchell, Harris County District Attorney's Office; Charley Wilkison, Combined Law Enforcement Associations of Texas)

Against — None

On — Shannon Edmonds, Texas District and County Attorney's Association

BACKGROUND: Penal Code, sec. 37.11 makes impersonation of a public servant a third-degree felony (two to 10 years in prison and an optional fine of up to \$10,000) if the person attempts to induce another to submit to the imposter's pretended authority or to rely on that person's pretended official acts.

Penal Code, sec. 37.12(a) prohibits making, providing to another person or possessing a card, document, badge, insignia, shoulder emblem, or other item bearing an insignia of a law enforcement agency if that item with an insignia is used falsely to identify the person as a commissioned peace officer or reserve law enforcement officer.

Penal Code, sec. 37.12(b) provides a defense to prosecution if:

- the person is an honorary or junior peace officer, reserve officer, or member of a junior posse;
- the item was official at the time the person was a peace officer; or
- the item was being used exclusively for decorative purposes or in an artistic or dramatic presentation.

DIGEST: HB 214 would amend Penal Code, sec. 37.11 to make impersonation of a public servant a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) if the person impersonated a public servant with the intention of committing another violation of the Penal Code.

The bill also would add uniforms bearing law enforcement agency insignias to the list of prohibited items that could be used falsely to identify a person as a peace officer or reserve law enforcement officer.

The bill would take effect on September 1, 2007.

SUPPORTERS SAY: HB 124 would enhance the penalty for a serious crime while protecting public confidence in the official insignia of public servants. In several incidents throughout the state, criminals have used police uniforms to disguise themselves as they commit other offenses, particularly against women. The public needs to be able to rely on the uniforms, badges and identification cards used to identify law enforcement officers, and that trust is violated when criminals usurp these symbols of authority. Increased awareness about homeland security raises additional concerns that criminals and potential terrorists might use uniforms to impersonate law enforcement officers.

Impersonating a law enforcement officer to commit additional offenses is a serious crime and deserves enhanced penalties. Prosecutors, as well as judges and juries, should be trusted to use their discretion wisely, but they should be able to apply the additional penalties when appropriate.

The fiscal note prepared by the Legislative Budget Board indicates that no significant fiscal implications to the state are anticipated due to HB 124. Concerns that this bill may aggravate prison overcrowding problems are exaggerated.

OPPONENTS SAY: Enhancing the penalty for any criminal offense likely will increase the demands upon the correctional resources of counties or the state. The state's correctional facilities are pressed to their limits, and Texas is struggling to find enough space for those already imprisoned. If the Legislature continues to enhance penalties, taxpayers will bear the burden.

NOTES: According to the fiscal note, the sales tax exemption for fuel cells would not have a significant fiscal impact on the state because fuel cell

technology has not yet been widely adopted as means of providing power for industrial or commercial applications.