

SUBJECT: Modifying offenses related to misrepresentation as law enforcement

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 7 ayes — Nevárez, Burns, Hinojosa, Holland, J. Johnson, Metcalf, Wray

1 nay — Schaefer

1 absent — P. King

WITNESSES: For — (*Registered, but did not testify*: Bill Elkin, Houston Police Retired Officers Association; Mitch Landry, Texas Municipal Police Association (TMPA))

Against — None

BACKGROUND: Local Government Code, sec. 341.904 makes it a crime for a person in a municipality with a population of at least 1.18 million that is located in a county of at least 2 million to intentionally or knowingly use, possess, or wear a police identification item or an item deceptively similar or to use, possess, or operate a marked patrol vehicle that is deceptively similar to a department patrol vehicle.

Penal Code, sec. 37.12 makes it a crime for a person who is neither a peace officer nor a reserve law enforcement officer to make, provide, or possess an item bearing an insignia of a law enforcement agency that falsely identifies a person as a peace officer or a reserve law enforcement officer. It also is a crime to misrepresent an object as property belonging to a law enforcement agency.

The above offenses are class B misdemeanors (up to 180 days in jail and/or a maximum fine of \$2,000).

DIGEST: CSHB 683 would extend the offense for the false possession or use of law enforcement identification items or vehicle to all municipalities in Texas

by removing the population limitation.

The bill would modify the conduct that constitutes the offense of false identification as a peace officer to include making, providing, or possessing a vehicle bearing an insignia of a law enforcement agency. An item bearing an insignia of a law enforcement agency could include one containing the word "police," "sheriff," "constable," "trooper," "ranger," "agent," or any other designation commonly used by law enforcement agencies.

To the conduct that constitutes the offense of misrepresentation of property, the bill would add misrepresenting a vehicle as property belonging to a law enforcement agency.

The bill would take effect September 1, 2017.

**SUPPORTERS
SAY:**

CSHB 683 would address concerns that current law does not explicitly prohibit individuals from placing on their vehicles a designation commonly used by law enforcement. Under current law, it is a crime for a person to make, provide, or possess an item bearing an insignia of a law enforcement agency if they are not a law enforcement officer. It is also a crime to misrepresent an object as property belonging to a law enforcement agency. However, it is unclear whether these offenses apply to vehicles, creating a gap in statute that has been understood to allow security companies to put these items on their vehicles.

Vehicles of numerous security companies have been observed with the words "police" or another word that could make the public believe they were a licensed police officer. This bill would close the gap in current statute by modifying existing penalties to include vehicles and expand the definition of what constitutes a designation commonly used by law enforcement.

The use of an insignia associated with law enforcement by private security officers could violate public trust. A bad experience with a security guard could lead the public to doubt or not trust law enforcement. The private

security industry is aware that there are bad actors who try to fool the public into thinking they are law enforcement and supports measures to address these issues.

OPPONENTS
SAY:

CSHB 683 is unnecessary because Occupations Code, sec. 1702.130 already prohibits a private security company from using a title, an insignia, or an identification card or from wearing a uniform containing the designation "police." Instead of modifying existing penalties relating to falsely identifying as a peace officer, misrepresenting property, and the possession or use of law enforcement items or vehicle, it would be more effective to clarify provisions in the Occupations Code specific to private security.

OTHER
OPPONENTS
SAY:

Although important to ensuring public trust of law enforcement in communities, CSHB 683's definition of an item bearing an insignia of a law enforcement agency would be too broad. For example, the word "agent" is listed as a designation commonly used by law enforcement, but other industries may use the word on their vehicles as well. Therefore, the bill could have unintended consequences for people in other such industries, potentially subjecting them to unwarranted criminal penalties.