

A BILL FOR AN ACT

RELATING TO LAW ENFORCEMENT IDENTIFICATION AND IMPERSONATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. The legislature finds that public safety and public trust depend on the public's ability to reliably distinguish lawfully authorized law enforcement action from false claims of law enforcement authority, non-law-enforcement security services, and conduct that creates a false appearance of police authority. The legislature further finds that the public has a reasonable expectation to make that distinction with confidence and without confusion or ambiguity.

The legislature further finds that Hawaii law contains criminal provisions addressing impersonation of public servants and law enforcement officers, and regulatory provisions governing private detectives and guards. These provisions do not provide a complete statutory framework addressing police-style titles, badges, identification cards, uniforms, patches, insignia, vehicle markings, emergency lights, sirens, electronic identifiers, and other indicia that may cause a reasonable person to believe that a person is a law enforcement officer, is affiliated with a law enforcement agency, or is exercising law enforcement authority.

The legislature further finds that a person may create the appearance of police authority through words, conduct, appearance, vehicles, equipment, or electronic communications. Public compliance may be induced by perceived police authority even without a direct verbal claim of officer status.

The purpose of this Act is to protect the public from false, misleading, or unauthorized representations of law enforcement authority, strengthen public confidence that persons presenting as law enforcement officers are subject to statewide training, competence, certification, and conduct standards, modernize Hawaii's law enforcement impersonation statutes, define law enforcement indicia, address police-style vehicles and electronic identifiers, clarify private security limitations, and authorize the law enforcement standards board to develop a model policy on law enforcement identification and use of law enforcement indicia.

SECTION 2. Chapter 710, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§710- Law enforcement identification and impersonation offenses; definitions. As used in sections 710-1016.6, 710-1016.7, 710-1016.8, and 710- , unless the context clearly requires otherwise:

"Law enforcement action" means a stop, detention, arrest, traffic stop, demand for identification, warrant service, command, search, scene-control action, entry request, crowd-control action, investigation, interview, or other interaction in which a person appears to exercise law enforcement authority toward a member of the public.

"Law enforcement indicia" means any title, badge, identification card, credential, uniform, patch, insignia, emblem, vehicle marking, emergency light, siren, equipment marking, electronic identifier, verbal

representation, written representation, digital representation, or other item or conduct that would cause a reasonable person to believe that the user is a law enforcement officer, is affiliated with a law enforcement agency, or is exercising law enforcement authority.

"Police-style vehicle" means any vehicle, regardless of ownership, registration, funding source, or duty status, which bears markings, equipment, lights, sirens, insignia, decals, colors, wording, or configuration that would cause a reasonable person to believe that the vehicle is used by a law enforcement agency or law enforcement officer. The term includes an agency-owned, leased, assigned, take-home, subsidized, or privately owned vehicle when equipped, marked, authorized, or used in a manner that creates the appearance of law enforcement authority."

SECTION 3. Section 710-1016.6, Hawaii Revised Statutes, is amended to read as follows:

"§710-1016.6 Impersonating a law enforcement officer in the first degree. (1) A person commits the offense of impersonating a law enforcement officer in the first degree if, with intent to deceive, the person pretends to be a law enforcement officer ~~{and is armed with a firearm}and:~~

(a) Is armed with a firearm or dangerous instrument;

(b) Uses or displays a police-style vehicle, emergency light, siren, badge, identification card, credential, uniform, insignia, electronic identifier, or other law enforcement indicia to conduct or attempt to conduct a law enforcement action;

(c) Stops, detains, searches, arrests, commands, or attempts to stop, detain, search, arrest, or command another person under apparent color of law enforcement authority;

(d) Obtains or attempts to obtain entry into a residence, vehicle, restricted area, secured area, or other location under apparent color of law enforcement authority;

(e) Obtains or attempts to obtain money, property, services, access, confidential information, identification information, or cooperation under apparent color of law enforcement authority; or

(f) Causes another person to submit to, avoid, or alter conduct in response to apparent law enforcement authority.

(g) Conducts or attempts to conduct a law enforcement action while concealing the person's facial identity without lawful justification.

(2) Impersonating a law enforcement officer in the first degree is a class C felony."

SECTION 4. Section 710-1016.7, Hawaii Revised Statutes, is amended to read as follows:

"§710-1016.7 Impersonating a law enforcement officer in the second degree.

(1) A person commits the offense of impersonating a law enforcement officer in the second degree if, with intent to deceive, the person pretends to be a law enforcement officer, including by use of words, conduct, appearance, law enforcement indicia, concealment of facial identity without lawful justification, a police-style vehicle, emergency light, siren, badge,

identification card, credential, uniform, insignia, electronic identifier, written representation, digital representation, or other representation that would cause a reasonable person to believe that the person is a law enforcement officer, is affiliated with a law enforcement agency, or is exercising law enforcement authority.

(2) Impersonating a law enforcement officer in the second degree is a misdemeanor.

(3) A person shall not be convicted under this section for conduct constituting impersonating a law enforcement officer in the first degree under section 710-1016.6."

SECTION 5. Section 710-1016.8, Hawaii Revised Statutes, is amended to read as follows:

"§710-1016.8 Presumptions. Any person other than a law enforcement officer, who wears the uniform or displays the badge or identification card of a law enforcement officer, or who wears a uniform or displays a badge or identification card resembling the uniform, badge or identification card of a law enforcement officer, or a badge or identification card purported to be a law enforcement officer's badge or identification card, or who uses or displays a police-style vehicle, emergency light, siren, credential, patch, insignia, emblem, equipment marking, electronic identifier, written representation, digital representation, or other law enforcement indicia resembling or purporting to be associated with a law enforcement officer or law enforcement agency, shall be presumed to be pretending to be a law enforcement officer."

SECTION 6. Chapter 710, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§710- False law enforcement identification; misuse of law enforcement indicia. (1) A person commits the offense of false law enforcement identification if, with intent to deceive, the person knowingly uses, displays, creates, possesses, transfers, publishes, or presents law enforcement indicia to cause a reasonable person to believe that the person is a law enforcement officer, is affiliated with a law enforcement agency, or is exercising law enforcement authority, when the person:

(a) Is not authorized by law or agency policy to use the law enforcement indicia; or

(b) Uses the law enforcement indicia to imply law enforcement status, agency affiliation, or lawful authority that the person does not possess.

(2) This section shall not apply to:

(a) A law enforcement officer acting under color of lawful authority;

(b) A person using law enforcement indicia for bona fide theatrical, motion picture, television, ceremonial, historical, educational, or training purposes, if the use is not intended to induce another person to believe that the person is a law enforcement officer or is exercising law enforcement authority;

(c) A collector or person possessing law enforcement memorabilia, if the item is not used, displayed, or presented to induce another person to believe that

the person is a law enforcement officer or is exercising law enforcement authority; or

(d) A person otherwise authorized by law to use the indicia.

(3) False law enforcement identification is a misdemeanor."

SECTION 7. Chapter 463, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§463- Law enforcement status; police-style identification; clarification.

(a) Licensure, registration, employment, armed security status, uniform approval, badge approval, vehicle use, or contract authority under this chapter does not confer law enforcement status, law enforcement authority, police powers, or authority to present as a law enforcement officer.

(b) No licensee, employee of a licensee, or person acting under authority of a licensee shall use a title, trade name, badge, identification card, credential, uniform, patch, insignia, emblem, vehicle marking, emergency light, siren, equipment marking, electronic identifier, written representation, digital representation, or other law enforcement indicia in a manner that falsely implies law enforcement status, association with a law enforcement agency, or authority to exercise law enforcement powers.

(c) Nothing in this section shall prohibit a licensee from using uniforms, badges, identification, emblems, vehicles, or equipment that are approved or authorized under this chapter and rules adopted pursuant to this chapter, provided that the use does not falsely imply law enforcement status, association with a law enforcement agency, or authority to exercise law enforcement powers."

SECTION 8. Section 463-11, Hawaii Revised Statutes, is amended to read as follows:

"§463-11 Association with government not to be implied. (a) No licensee shall use any designation or trade name which implies any association with any municipal, county, state, or territorial government or the federal government, or any agency thereof; nor shall a licensee or employee of any licensee wear any badge or uniform capable of being associated with the badge or uniform of any government law enforcement organization.

(b) No licensee or employee of any licensee shall use or display any identification card, credential, patch, insignia, emblem, vehicle marking, emergency light, siren, equipment marking, electronic identifier, written representation, digital representation, or other indicia capable of being associated with a government law enforcement organization or law enforcement officer, unless authorized by law and used in a manner that does not imply law enforcement status or police authority.

(c) No licensee or employee of any licensee shall use a police-style vehicle, emergency-style light, siren, agency-like decal, or vehicle configuration that would cause a reasonable person to believe that the vehicle is used by a law enforcement agency or law enforcement officer, unless authorized by law and used in a manner that does not imply law enforcement status or police authority."

SECTION 9. Chapter 139, Hawaii Revised Statutes, is amended by adding a new section to be appropriately designated and to read as follows:

"§139- Law enforcement identification and law enforcement indicia; model policy. (a) The board may develop and publish a model policy on law enforcement identification, use and control of law enforcement indicia, police-style vehicles, electronic identifiers, and prevention of false or misleading appearance of law enforcement authority.

(b) The model policy may include standards and guidance concerning public-facing law enforcement identification, agency-issued credentials, uniforms, badges, titles, vehicle markings, emergency equipment, digital or electronic identifiers, facial coverings, operational exceptions, training, reporting, complaints, and administrative review.

(c) The model policy shall be advisory unless adopted by an agency or otherwise required by law. Nothing in this section shall be construed to create direct board regulatory authority over private security companies, contractors, volunteers, employers, or other non-law-enforcement persons, except to the extent otherwise provided by law, agency policy, contract, agreement, operational control, certification requirements, or rules adopted pursuant to this chapter."

SECTION 10. Statutory material to be repealed is bracketed and stricken. New statutory material is underscored.

SECTION 11. This Act shall take effect upon its approval.

INTRODUCED BY: _____

Report Title:

Law Enforcement Identification; Impersonation; Law Enforcement Indicia; Police-Style Vehicles; Private Security; Law Enforcement Standards Board

Description:

Establishes definitions relating to law enforcement indicia, police-style vehicles, and law enforcement actions. Expands law enforcement impersonation offenses to include conduct-based, visual, vehicle-based, equipment-based, written, digital, and electronic false representations of law enforcement authority. Creates an offense of false law enforcement identification. Clarifies that private detective licensure, guard registration, armed security status, uniforms, badges, vehicles, and security contracts do not confer law enforcement status or police authority. Authorizes the law enforcement standards board to develop a model policy on law enforcement identification and use of law enforcement indicia.