

SENATE BILL 2255

By Massey

AN ACT to amend Tennessee Code Annotated, Title 4; Title 8; Title 12 and Title 39, Chapter 16, relative to criminal offenses against administration of government.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 16, Part 5, is amended by adding the following language as a new section:

39-16-517.

(a) This section shall be known and may be cited as the "Titled Use of Tennessee's Governmental Seals, Emblems or Insignia Act".

(b) As used in this section, unless the context otherwise requires:

(1) "Authorized official" means a commissioner, mayor, city manager, chief, sheriff, director, or similar official of any political subdivision of the state or of any agency, department, or division of the state or political subdivision of the state;

(2) "Official seal" means the great seal of the state of Tennessee as described in Art. III, § 15 of the Constitution of Tennessee and § 4-1-314 or any design, device, patch, logo, emblem or insignia of the state or any political subdivision of the state, or of any agency, department, or division of the state or any political subdivision of the state; and

(3) "Secretary" means the secretary of state or the secretary of state's lawfully appointed designee.

(c) The general assembly finds that the great seal of the state of Tennessee is a symbol of the authority and sovereignty of this state and is a valuable asset of its people.

Similarly, an official seal of a political subdivision of the state, or of any agency, department, or division of the state or any political subdivision of the state is likewise a symbol of authority and is a valuable asset to the people. It is the intent of the legislature to ensure that appropriate uses are made of such official seals and to assist the secretary of state and authorized officials in the performance of their duty as custodians of these official seals.

(d) Except as otherwise provided in this section or as authorized by the governor, the secretary, or other authorized official, an official seal shall be used for official purposes only by the state, any political subdivision of the state, or any agency, department, or division of the state or any political subdivision of the state.

(e) The secretary may authorize the use of the official seal of this state and authorized officials may authorize the use of their official seals on commemorative and souvenir items, and for historical, educational, and civic purposes. Any authorization for non-governmental use shall be in writing.

(f) Except as otherwise provided, an official seal shall not be used on or in connection with any advertising or promotion for any product, business, organization, service, or article whether offered for sale for profit or offered without charge.

(g) It is an offense to knowingly use an official seal in a political campaign to assist or defeat any candidate for elective office.

(h) It is an offense to knowingly use any symbol that imitates an official seal or that is deceptively similar in appearance to an official seal, in any manner that would be an improper use of the seal itself.

(i) It is an offense to knowingly use an official seal, or any deceptively similar imitation when not authorized or with intent to defraud or harm another.

(j) Nothing in this section shall prohibit the reproduction of an official seal for:

(1) Illustrative purposes by the news media, if the reproduction by the news media is incidental to the publication or broadcast; or

(2) Illustrative purposes in the course of educational programs conducted by the state or any institution operating under title 49.

(k) It is an offense to knowingly use an official seal in an endorsement of any business, organization, product, service, or article.

(l) With respect to the official seal of the state, the secretary shall report violations to the attorney general and reporter, the district attorneys general, or the Tennessee bureau of investigation. Investigations and enforcement of violations of this section regarding the official seal of the state shall be limited to the attorney general and reporter, the district attorney general, the Tennessee bureau of investigation, or the chief law enforcement officer of the county in which the violation reportedly occurred.

(m) With respect to an official seal other than the official seal of the state, the district attorney general for the judicial district or the chief law enforcement officer of the county shall conduct or cause an investigation to be conducted for a violation of this section.

(n) A violation of this section is a Class A misdemeanor; provided, however, a violation of subsection (i) where the official seal is that of a paid or volunteer firefighter, emergency medical technician, rescue service member, emergency management service member, law enforcement officer, or other public safety official, is a Class E felony.

(o) It is a defense to a prosecution under this section that the official seal is used or is intended to be used exclusively:

(1) As a memento or in a collection or exhibit; or

(2) For a dramatic presentation, such as a theatrical, film or television production.

(p) It is a defense to a prosecution under subsection (g) that the official seal was used by the elected official currently holding the office or position that the seal represents.

SECTION 2. Tennessee Code Annotated, Section 39-16-301, is amended by deleting subsection (b) and subdivision (c)(2) in their entireties and redesignating subdivision (c)(1) as subsection (b).

SECTION 3. Tennessee Code Annotated, Title 39, Chapter 16, Part 3, is amended by adding the following language as a new, appropriately designated section:

39-16-304.

(a) As used in this section:

(1) "Federal law enforcement officer" means an employee or agency of the United States, where the duties of which are primarily the investigation, apprehension, or detention of individuals suspected or convicted of offenses under the criminal laws of the United States;

(2) "Impersonate" means to:

(A) Act the part of, assume the identity of, or knowingly wear, exhibit, or use the authorized uniform or any part of the uniform, insignia, emblem, device, label, certificate, card, or writing, of a peace officer or federal law enforcement officer;

(B) Possess, use, or distribute any fictitious, fraudulently altered, or fraudulently obtained uniform, insignia, emblem, device, label, certificate, card, or writing, of a peace officer or federal law enforcement officer; or

(C) Possess, use, or distribute any uniform, insignia, emblem, device, label, certificate, card, or writing or any uniform, insignia, emblem,

device, label, certificate, card, or writing which so resembles the authorized uniform, insignia, emblem, device, label, certificate, card, or writing of a peace officer or federal law enforcement officer as would deceive any ordinary reasonable person into believing that it is authorized for the use of one who by law is given the authority of a peace officer or federal law enforcement officer with the intent of fraudulently impersonating a peace officer or federal law enforcement officer, or of fraudulently inducing the belief that such person is a peace officer or federal law enforcement officer; and

(3) "Peace officer" means a sheriff, deputy sheriff, member of municipal police department, a member of a police force employed by a housing authority, a state university law enforcement officer, a special police officer, an officer, agent, or employee of the state or any of its agencies, instrumentalities, or political subdivisions, upon whom, by statute, a duty is imposed by law to maintain public order, make arrests for offenses, whether that duty extends to all offenses or is limited to specific offenses, and investigate the commission or suspected commission of offenses, a state highway patrol trooper, or an agent of the Tennessee bureau of investigation.

(b) No person shall, with intent to deceive, impersonate a peace officer or federal law enforcement officer.

(c)

(1) The head of an agency that employs peace officers is authorized to issue identification in the form of a badge, insignia, emblem, device, label, certificate, card, or writing that clearly states the status, as defined by rules of the

peace officer standards and training commission, of the person to whom it is issued.

(2) If the head of an agency issues a badge or identification card to an honorably retired peace officer that is not affixed to a plaque or other memento commemorating the retiree's service for the agency, the word "Retired" shall be clearly visible above, underneath, or on the badge or identification card itself.

(3) The head of an agency that employs peace officers is authorized to revoke any badge or identification granted pursuant to subsection (c) in the event of misuse or abuse. A person commits an offense who knowingly possesses, uses, or displays any badge or identification after notice of such revocation has been provided.

(d)

(1) Vendors of uniforms, insignia, emblems, devices, labels, certificates, cards, or other items which identify the person as a peace officer shall verify that a person purchasing uniforms, insignia, emblems, devices, labels, certificates, cards, or other items identifying a law enforcement agency is an employee of the agency. Presentation and examination of a valid identification card with a picture of the person purchasing the uniform or identification on the letterhead of the law enforcement agency of the person buying the uniform as an employee of the agency identified on the uniform shall be sufficient verification.

(2) Any vendor who sells a uniform identifying a law enforcement agency, without verifying that the purchaser is an employee of the agency, commits a Class A misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000).

(3) This subsection (d) shall not apply if the uniform, insignia, emblem, device, label, certificate, card, or writing is to be used solely as a prop for a motion picture, television, video production, or a theatrical event, commemorative event, or promotional event and prior written permission has been obtained from the identified law enforcement agency.

(e) A violation of subsection (b) is a Class A misdemeanor.

(f) A violation of subdivision (c)(3) is a Class C misdemeanor.

SECTION 4. This act shall take effect July 1, 2014, the public welfare requiring it.