

HOUSE BILL REPORT

ESSB 5861

As Reported by House Committee On:

State Government

Title: An act relating to criminal impersonation of a veteran of the armed forces.

Brief Description: Making it a crime to impersonate a veteran of the armed forces.

Sponsors: Senate Committee on Government Operations & Elections (originally sponsored by Senators Roach, Rasmussen, T. Sheldon, Finkbeiner, Kohl-Welles, Oke, Schmidt and Shin).

Brief History:

Committee Activity:

State Government: 2/19/04, 2/20/04 [DPA].

Brief Summary of Engrossed Substitute Bill (As Amended by House Committee)

- Creates a new method of committing criminal impersonation in the second degree by falsely assuming the identity of a veteran or active duty member of the armed forces with intent to defraud for the purpose of personal gain or to facilitate any unlawful activity.

HOUSE COMMITTEE ON STATE GOVERNMENT

Majority Report: Do pass as amended. Signed by 9 members: Representatives Haigh, Chair; Miloscia, Vice Chair; Armstrong, Ranking Minority Member; Shabro, Assistant Ranking Minority Member; Hunt, McDermott, Nixon, Tom and Wallace.

Staff: Katie Blinn (786-7114).

Background:

A person is guilty of criminal impersonation in the *first* degree, a gross misdemeanor, if the person:

- assumes a false identity and does something in the assumed character with the intent to defraud another or for any other unlawful purpose; or
- pretends to be a public servant or a representative of a person or organization and

does something in the assumed character with the intent to defraud another or for any other unlawful purpose.

The maximum penalty for a gross misdemeanor is one year in jail and a \$5,000 fine.

A person is guilty of criminal impersonation in the *second* degree, a simple misdemeanor, if the person:

- claims to be a law enforcement officer or creates an impression that he or she is a law enforcement officer; and
- under circumstances not amounting to criminal impersonation in the first degree, does something with intent to convey the impression of acting in an official capacity that would lead a reasonable person to believe he or she is a law enforcement officer.

The maximum penalty for a simple misdemeanor is 90 days in jail and a \$1,000 fine.

Caselaw has established some guidelines on prosecutorial discretion when it comes to charging decisions. The Washington Supreme Court has consistently held that, when both a general crime and a specific crime encompass identical conduct under identical circumstances, the prosecutor has no discretion and must charge the specific crime.

Summary of Amended Bill:

An additional method of committing criminal impersonation in the second degree is established. A person may be guilty of criminal impersonation in the second degree if the person:

- falsely assumes the identity of a veteran or active duty member of the United States armed forces with the intent to defraud for the purpose of personal gain or to facilitate any unlawful activity.

Amended Bill Compared to Engrossed Substitute Bill:

The amended bill clarifies that the crime applies to falsely assuming the identity of a veteran or active duty member of the armed forces.

Appropriation: None.

Fiscal Note: Not requested.

Effective Date of Amended Bill: The bill takes effect on July 1, 2004.

Testimony For: This bill is brought by a number of veterans groups who are aware of incidents of fraud occurring. It is difficult to place this as first degree impersonation because that would exceed impersonation of a law enforcement officer. This is a serious issue in the veterans community. One victim was defrauded \$10,000 by someone who

pretended to be a veteran. People are showing up at veterans events pretending to be veterans. We need a way to deal with these people civilly. The only thing we can do now is make a scene at a public event, but we cannot go after these people. A computer program is being sold on EBay that provides blank discharge papers, and Medal of Honor medals are being sold over the internet. This problem is a blight on the veterans community. The Veterans Legislative Coalition and the Paralyzed Veterans of America support the bill.

Testimony Against: None.

Persons Testifying: Senator Roach, prime sponsor; Chuck Lawrence, Vietnam Veterans of America; Don Smith and Doris Gross, Veterans Legislative Coalition; Skip Dreps, Paralyzed Veterans of America; and Tony Woods, Veterans of Foreign Wars.

Persons Signed In To Testify But Not Testifying: None.