

**PRESENTATION OF THE  
BOARD OF PRIVATE DETECTIVES  
AND GUARDS**

TO THE HOUSE COMMITTEE ON  
CONSUMER PROTECTION AND COMMERCE

TWENTY-EIGHTH LEGISLATURE  
Regular Session of 2016

Monday, February 8, 2016  
2:05 p.m.

**WRITTEN COMMENTS ONLY**

**TESTIMONY ON HOUSE BILL No. 1626, RELATING TO PRIVATE DETECTIVE AND  
PRIVATE GUARD IDENTIFICATION.**

TO THE HONORABLE ANGUS L. K. MCKELVEY, CHAIR,  
AND MEMBERS OF THE COMMITTEE:

My name is Kenneth Chang, member of the Board of Private Detectives and Guards ("Board"). Thank you for the opportunity to testify on House Bill No. 1626, which clarifies an existing statutory mandate that private detectives and guards are prohibited from self-identifying as a law enforcement officer, police, or police officer.

While the Board has not had the opportunity to review this bill, it will do so at its next meeting on March 10, 2016. Therefore, the Board is not able to offer comments on the proposed amendments at this time.

Thank you for the opportunity to testify on House Bill No. 1626.

**Testimony of Dr. Daniel P. de Gracia, Th.D., D.Min., M.A.**  
in opposition to the measure  
House Bill No.1626, Relating to Private Detective and Private Guard  
Identification  
before the

House Committee on Consumer Protection & Commerce  
Monday, February 8, 2016, 2:05 p.m. in Conference Room 325

Chair McKelvey, Vice Chair Woodson, Honorable Members of the Committee:

Thank you for the opportunity to testify in opposition to this measure. While I can appreciate the noble legislative intent behind this measure which seeks to remove confusion between law enforcement agencies and private security entities, this measure is poorly worded to the extent that not only would it increase domestic confusion, but also likely infringe on the First Amendment's protection of freedom of expression.

To begin, Section 2 of the measure prohibits a licensee or employees of any licensee from using any "equipment, vehicle, or other accoutrement capable of being associated with the badge, uniform, equipment, or accoutrement of any law enforcement officer employed by a government law enforcement organization." This is extremely problematic.

For example, numerous state and municipal police forces utilize white or blue Ford Crown Victoria or Ford Taurus vehicles which happen to be highly cost-effective, generic automobiles used by both private individuals and private entities alike. Does this measure, then, seek to prohibit private security from purchasing or using commercial versions of these vehicles simply because someone might "mistake" them as a police car? It seems bizarre that the Legislature would effectively make an entire line of vehicles illegal in the State of Hawaii, and this in particular might have drastic economic implications for car dealerships.

Similarly, the use of so-called "tactical" utility clothing, such as those popularized by companies like 5.11 Tactical which provide generic uniforms utilized by military, law enforcement, EMS, and private entities because of their functionality, would also be banned by this measure's poorly written blanket approach.

Police use utility uniforms, does this mean that a private security contractor who wears a black cargo pants would be in violation of the law because he "looks" like a SWAT team member? Also, how does this measure apply to U.S. government private military security contractors operating within the State of Hawaii? Are they now to show up to work in Hawaii performing vital national security contracts, dressed only in khaki pants and polo shirts, equipped only with plastic whistles -not a metal one, lest they mimic the kind used by a police officer, mind you - and reflective orange safety vests like school crossing guards since your measure would ban them from using anything remotely reminiscent of a police officer's accoutrements or uniform?

There are a number of operational functional and practical reasons - none of which involve color of authority - too numerous to list here why private entities would use similar "equipment, vehicles, or other accoutrement capable of being associated" with law enforcement. This absurd logic could continue to the extent that anything used by a police officer - ranging from Mag-Lite flashlights, to polarized sunglasses, to first aid kits, to hand sanitizers, to creased blue pants, to polished Corfam shoes, to even short haircuts and so on - would be illegal simply because someone might "mistake" an individual making use of them as a police officer. Members of the Committee, to imply that the general public cannot tell the difference between a rent-a-cop and an HPD officer is, frankly, insulting.

Next, the Committee would be wise to consider the Supreme Court's ruling in *United States v. Alvarez* which struck down the Stolen Valor Act which made it a crime to falsely claim receipt of military decorations under the First Amendment. In reviewing the Stolen Valor Act, the Court stated that when Government seeks to regulate protected speech, the restriction must be "the least restrictive means among available, effective alternatives."

While it is clear that the State is well within its right to protect the public from individuals and entities impersonating the authority of a police officer, the method employed in HB1626 is so restrictive as to give the government unlimited power in controlling speech and private expression.

For millennia, ancient empires banned the use of the color gold or red under penalty of death, claiming that use by anyone other than an emperor and his subjects constituted impersonating a god or the government. The United States of America has significantly evolved forward of that fallacy since ancient times to include free market principles and freedom of expression as part of a democratic society.

It is already illegal to impersonate a police officer, because significant injury could result from such confusion. Nevertheless, it should not be illegal to use the "equipment, vehicle, or other accoutrement" of any police officer, for then the list of items prohibited to the public would be infinite. In effect, you are saying that anything used by a police officer is off limits to the public. That would be a new low for the already sagging trajectory of American policy devolution.

I urge the members of the committee to work within the framework of existing law to enforce laws against impersonation and color of authority. Please defer this measure.

Thank you for this opportunity to testify.

From: mailinglist@capitol.hawaii.gov  
Sent: Friday, February 05, 2016 3:10 PM  
To: CPCtestimony  
Cc: mghsmart@yahoo.com  
Subject: Submitted testimony for HB1626 on Feb 8, 2016 14:05PM

**HB1626**

Submitted on: 2/5/2016

Testimony for CPC on Feb 8, 2016 14:05PM in Conference Room 325

<b>Submitted By</b>	<b>Organization</b>	<b>Testifier Position</b>	<b>Present at Hearing</b>
Mary Smart	Individual	Oppose	No

Comments: This bill is too vague. People (including licensed detectives) participating in neighborhood watch organizations or who "see something and say something" may inadvertently violate this bill while trying to uphold current laws. Since some police/law enforcement clothing and artifacts copy civilian trends, it is impractical to tell citizens that because police have adopted their "style" they can no longer wear their chosen wardrobe or use their private property. Civilians impersonating police officers are problematic and need to be stopped, but this bill doesn't do it.

Please note that testimony submitted less than 24 hours prior to the hearing, improperly identified, or directed to the incorrect office, may not be posted online or distributed to the committee prior to the convening of the public hearing.

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HAWAII GOVERNMENT EMPLOYEES ASSOCIATION  
AFSCME Local 152, AFL-CIO

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LATE TESTIMONY

LATE

The Twenty-Eighth Legislature, State of Hawaii  
The House of Representatives  
Committee on Consumer Protection & Commerce

Testimony by  
Hawaii Government Employees Association  
February 8, 2016

LATE

H.B. 1626 – RELATING TO PRIVATE DETECTIVE AND  
PRIVATE GUARD IDENTIFICATION


The Hawaii Government Employees Association, AFSCME Local 152, AFL-CIO supports the intent of H.B. 1626 which would prohibit private detectives and private guards from self-identifying as law enforcement officers, police, or police officers and wearing or using any badge, uniform, equipment, vehicle or other accoutrement capable of being associated with that of a law enforcement officer employed by a government law enforcement organization.

HGEA represents state law enforcement officers in the Department of Public Safety (Deputy Sheriffs), Department of Land and Natural Resources (Conservation and Resources Enforcement Officers) and the Department of Transportation (Harbor Enforcement Officers). When private security or private guards, knowingly or not, give the impression that they are law enforcement officers, this can very easily mislead and/or confuse the public and make the job of police and other law enforcement officers much more challenging and difficult. More importantly, this can also potentially jeopardize the safety and security of the general public.

This legislation will clarify and contribute to a clearer message regarding who are law enforcement officers and who has law enforcement authority.

Thank you for the opportunity to provide testimony and we urge your support of H.B. 1626.

Respectfully submitted,

  
for Randy Perreira  
Executive Director