

## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** PCB CRJS 11-09 Unlawful Use of Insignia

**SPONSOR(S):** Criminal Justice Subcommittee

**TIED BILLS:** None **IDEN./SIM. BILLS:** None

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Criminal Justice Subcommittee		Williams	Cunningham

### SUMMARY ANALYSIS

Section 817.31, F.S., makes it a second degree misdemeanor for a person who is not a member of the American Legion to wear the badge, button or other insignia of the American Legion.

Since 2000, the Florida Department of Law Enforcement has reported that there has been one arrest associated with this section of statute.

The proposed committee bill repeals s. 817.31, F.S.

The proposed committee bill is estimated to have no fiscal impact and is effective July 1, 2011.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

Section 817.30, F.S., currently provides the following:

Any person who willfully wears the badge or button of the Grand Army of the Republic, the insignia, badge or rosette of the Military Order of the Loyal Legion of the United States, or of the Military Order of Foreign Wars of the United States, or of the Patrons of Husbandry, or the Benevolent and Protective Order of Elks of the United States of America, or of the Woodmen of the World, or of any society, order or organization of 5 years' standing in the state, or uses the same to obtain aid or assistance within this state, or willfully uses the name of such society, order or organization, the titles of its officers, or its insignia, ritual or ceremonies, unless entitled to use or wear the same under the constitution and bylaws, rules and regulations of such order or of such society, order or organization, is guilty of a misdemeanor of the second degree.<sup>1</sup>

Section 817.31, F.S., created in 1921,<sup>2</sup> contains a similar provision that makes it a misdemeanor of the second degree for a person who is not a member of the American Legion to wear the badge, button or other insignia of the American Legion.

Section 817.31, F.S., has not been amended in a substantive way since its creation. It was amended in 1971<sup>3</sup> to update the associated penalty to a second degree misdemeanor from its original penalty of up to six months imprisonment or up to a \$1,000 fine.

Since 2000, the Florida Department of Law Enforcement has reported that there has been one arrest associated with this section of statute.

##### **Effect of the Proposed Committee Bill**

The proposed committee bill repeals s. 817.31, F.S. Unauthorized persons who wear the badge, button or other insignia of the American Legion would likely still be able to be penalized pursuant to s. 817.30, F.S.

#### B. SECTION DIRECTORY:

Section 1. Repeals s. 817.31, F.S., relating to unlawful use of insignia of American Legion; penalty.

Section 2. Provides an effective date of July 1, 2011.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

#### A. FISCAL IMPACT ON STATE GOVERNMENT:

##### 1. Revenues:

None.

##### 2. Expenditures:

None.

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<sup>1</sup> A second degree misdemeanor is punishable by up to 60 days imprisonment and a \$500 fine. Sections 775.082 and 775.083, F.S.

<sup>2</sup> Section 1, ch. 8464, 1921; CGL 7301.

<sup>3</sup> Section 861, ch. 71-136, L.O.F.

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

None.

**C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

The proposed committee bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**