

## **Enlisted Association of the Arkansas National Guard (EAANG) Resolution**

### **AR 15 – 01**

**TITLE:** Criminal Impersonation of the National Guard during times of Emergency

**SHORT DESCRIPTION:** Amend A.C.A 5-37-208 to include the impersonation of the National Guard during time of an emergency as a criminal offense.

**PROPOSAL TYPE:** New Submission

**SUBMITTER:** SFC James H. Howard

**BUSINESS CASE:** Currently the State of Arkansas has no criminal statute which provides penalties for impersonating a member of the National Guard, either during a time of emergency or otherwise. Federal statutes do provide for penalties for impersonation of military personnel, however those statutes specifically refer to: Unauthorized wear of US military uniforms (10 USC § 771 and 18 USC § 702)), and impersonation of Federal Officers (18 USC § 912) and provide penalties which are “minimal” in nature. The National Guard is the Governor’s first line force to respond to emergencies within the State. With the ever present threat of terrorist attack, and natural or manmade disasters, the potential for persons to intentionally or unintentionally interfere with emergency operations by impersonating a member of the National Guard poses the potential for catastrophic effects. Inclusion of the National Guard within Arkansas Criminal Code subsection 5-37-208, will allow the State a tool to prevent and/or punish those who may hinder emergency operations which does not rise to the level of a Federal offense.

**RECOMMENDATION:** The Enlisted Association of the Arkansas National Guard encourages the State of Arkansas to amend A.C.A. 5-37-208 to include the impersonation of a member of the National Guard during times of emergency as a criminal offense. A recommended revision of A.C.A. 5-37-208 is attached.

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**AS READS CURRENTLY:**

**5-37-208. Criminal impersonation.**

**(a) (1)** A person commits criminal **impersonation** in the first degree if, with the purpose to induce a person to submit to pretended official authority for the purpose to injure or defraud the person, the person:

**(A)** Pretends to be a law enforcement officer by wearing or displaying, without authority, any uniform or badge by which a law enforcement officer is lawfully distinguished; or

**(B)** Uses a motor vehicle or motorcycle designed, equipped, or marked so as to resemble a motor vehicle or motorcycle belonging to a federal, state, or local law enforcement agency.

**(2)** Criminal **impersonation** in the first degree is a Class D felony.

**(b) (1)** A person commits criminal **impersonation** in the second degree if the person does an act in his or her pretended or assumed capacity or character with the purpose to injure, defraud, harass, or intimidate another person and the actor:

**(A)** Assumes a false identity;

**(B)** Pretends to be a representative of a person or organization;

**(C)** Pretends to be an officer or employee of the government other than a law enforcement officer described in subsection (a) of this section;

**(D)** Pretends that he or she is a law enforcement officer when the person is not a law enforcement officer; or

**(E)** Pretends to have a handicap or disability.

**(2)** Criminal **impersonation** in the second degree is a:

**(A)** Class D felony if:

**(i)** The victim of the offense is an animal owner; and

**(ii)** An animal of the owner is seized as a result of the offense; or

**(B)** Class A misdemeanor if otherwise committed.

**(c)** As used in this section:

**(1)** "Animal" means the same as defined in § 5-62-102; and

**(2)** "Owner" means the same as defined in § 5-62-102.

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**AS PROPOSED:**

**5-37-208. Criminal impersonation.**

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**(A)** Pretends to be a law enforcement officer by wearing or displaying, without authority, any uniform or badge by which a law enforcement officer is lawfully distinguished; or

**(B)** Uses a motor vehicle or motorcycle designed, equipped, or marked so as to resemble a motor vehicle or motorcycle belonging to a federal, state, or local law enforcement agency; or

**(C)** Represents themselves to be a member of the National Guard or organized militia, during an emergency situation, for the purpose of either interfering with emergency activities for any reason or obtaining goods or services for themselves or others.

**(2)** Criminal **impersonation** in the first degree is a Class D felony.

**(b) (1)** A person commits criminal **impersonation** in the second degree if the person does an act in his or her pretended or assumed capacity or character with the purpose to injure, defraud, harass, or intimidate another person and the actor:

**(A)** Assumes a false identity;

**(B)** Pretends to be a representative of a person or organization;

**(C)** Pretends to be an officer or employee of the government other than a law enforcement officer described in subsection (a) of this section;

**(D)** Pretends that he or she is a law enforcement officer when the person is not a law enforcement officer; or

**(E)** Pretends that he or she is a member of the National Guard or organized militia when the person is not; or

**(F)** Pretends to have a handicap or disability.

**(2)** Criminal **impersonation** in the second degree is a:

**(A)** Class D felony if:

**(i)** The victim of the offense is an animal owner; and

**(ii)** An animal of the owner is seized as a result of the offense; or

**(B)** Class A misdemeanor if otherwise committed.

**(c)** As used in this section:

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- (1)** "Animal" means the same as defined in § 5-62-102; and
- (2)** "Owner" means the same as defined in § 5-62-102; and
- (3)** "Organized militia" means the National Guard of the state as defined in 32 U.S.C. § 101(3); and
- (4)** "Emergency situation" means the same as defined in § 21-4-212(c)(2).