

**Prohibition of Gang Insignia in
Government Premises Bill**

Member's Bill

As reported from the committee of the whole
House

**Prohibition of Gang Insignia in
Government Premises Bill**

Key to symbols used in reprinted bill

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House**

text inserted

Mark Mitchell

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The Parliament of New Zealand enacts as follows:

1 Title

This Act is the Prohibition of Gang Insignia in Government Premises Act **2012**.

2 Commencement

This Act comes into force on the day after the date on which it receives the Royal assent.

**Part 1
General provisions**

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3 Purpose

The purpose of this Act is to prohibit the display of gang insignia on premises of departments of the Public Service, the Police, Crown entities, local authorities, and schools.

4 Interpretation

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In this Act, unless the context otherwise requires,—

Crown entity has the same meaning as in section 7 of the Crown Entities Act 2004

department means any department specified in Schedule 1 of the State Sector Act 1988

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district health board means a district health board established by or under section 19 of the New Zealand Public Health and Disability Act 2000

gang means any organisation, association, or group of persons—

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(a) that is known by a name that is the same as, or substantially similar to, any of the following:

(i) Aotearoa Natives:

(ii) Bandidos MC:

(iii) Black Power:

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(iv) Devils Henchmen MC:

(v) Epitaph Riders:

(vi) Filthy Few MC:

(vii) Forty-Five MC:

(viii) Greasy Dogs MC:

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(ix) Head Hunters MC:

(x) Hells Angels MC:

(xi) Highway 61 MC:

(xii) Hu-Hu MC:

(xiii) Killerbeez:

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(xiv) King Cobras:

- (xv) Lone Legion MC:
- (xvi) Lost Breed MC:
- (xvii) Magogs MC:
- (xviii) Mongrel Mob:
- (xix) Mangu Kaha: 5
- (xx) Mothers MC:
- (xxi) Nomads:
- (xxii) Outcasts MC:
- (xxiii) Outlaws MC:
- (xxiv) Rebels MC: 10
- (xxv) Red Devils MC:
- (xxvi) Road Nights MC:
- (xxvii) Satans Slaves MC:
- (xxviii) Sinn Fein MC (not being a branch, or an associated organisation, of the political party known by a similar name): 15
- (xxix) Southern Vikings MC:
- (xxx) Storm Troopers:
- (xxxi) Taupiri MC:
- (xxxii) Tribal Huk: 20
- (xxxiii) Tribesmen MC:
- (xxxiv) Tyrants MC; or
- (b) identified in regulations made under **section 5 gang insignia**—
- (a) means a sign, symbol, or representation commonly displayed to denote membership of, an affiliation with, or support for a gang, not being a tattoo; and 25
- (b) includes any item of clothing to which a sign, symbol, or representation referred to in **paragraph (a)** is attached
- Government premises**— 30
- (a) means the whole or part of any structure (including any associated grounds) that is owned by, or is under the control of,—
- (i) the Crown, acting through a department, the Police, or a Crown entity; or 35
- (ii) a local authority; and
- (b) includes the buildings and grounds of any school; and
- (c) includes the grounds of—

- (i) any public hospital or health facility that is owned by, or is under the control of, a District Health Board; and
 - (ii) any public swimming pool or aquatic centre that is owned by, or is under the control of, a local authority; but 5
 - (d) excludes any residential dwelling that is owned by, or is under the control of, Housing New Zealand Corporation or a local authority
- integrated school** has the same meaning as in section 145(1) of the Education Act 1989 10
- local authority** has the same meaning as in section 5(1) of the Local Government Act 2002
- Police** has the same meaning as in section 4 of the Policing Act 2008 15
- school** means any of the following:
- (a) a State school:
 - (b) an integrated school:
 - (c) any other school in respect of which the Crown pays, or authorises the payment of, either or both— 20
 - (i) grants:
 - (ii) teachers' salaries:
 - (d) a licensed early childhood education and care centre within the meaning of section 309 of the Education Act 1989: 25
 - (e) a playgroup within the meaning of section 309 of the Education Act 1989 for which a certificate issued under regulations under that Act is held and in respect of which the Crown pays, or authorises the payment of, grants 30
- State school** has the same meaning as in section 145(1) of the Education Act 1989
- structure** includes a temporary structure, a movable structure, a structure for the storage of machinery or chattels, and a structure for the containment of animals. 35

5 Regulations

- (1) The Governor-General may, on the recommendation of the Minister of Police, by Order in Council, make regulations for the purpose of identifying an organisation, association, or group of persons as a gang for the purposes of this Act. 5
- (2) The Minister of Police may not make a recommendation under **subsection (1)** unless he or she is satisfied on reasonable grounds that the organisation, association, or group proposed to be identified has the following characteristics: 10
- (a) a common name or common identifying signs, symbols, or representations; and
 - (b) its members, associates, or supporters individually or collectively promote, encourage, or engage in criminal activity.

Part 2 15

Offences and enforcement

6 Prohibition of display of gang insignia

- (1) No person may display gang insignia at any time in Government premises.
- (2) Every person who, without reasonable excuse, contravenes **subsection (1)** commits an offence and is liable on conviction to a fine not exceeding \$2,000. 20
- (3) Without limitation, and to avoid doubt, a Judge may apply section 128 of the Evidence Act 2006 in deciding whether a sign, symbol, or representation is gang insignia for the purposes of this Act. 25

Compare: 2009 No 1 (L) s 12

7 Powers of arrest and seizure in relation to persons displaying gang insignia

- (1) A constable may, without warrant,— 30
- (a) arrest a person whom the constable has good cause to suspect has committed an offence against **section 6(2)**;
 - (b) seize and remove gang insignia (by the use of force if necessary) that has been or is being displayed in Government premises. 35

- (2) Gang insignia seized under **subsection (1)(b)** are forfeited to the Crown if the person from whom the gang insignia is taken pleads guilty to, or is convicted of, an offence against **section 6(2)**.
- (3) If gang insignia are forfeited to the Crown under **subsection (2)**, the gang insignia may be destroyed or otherwise disposed of as the court, either at the time of the conviction for the offence under **section 6(2)** or on a subsequent application, directs. 5
Compare: 2009 No 1 (L) s 13 10
- 8 Power to stop vehicle to exercise powers of arrest or seizure**
- (1) A constable may stop a vehicle without a warrant to exercise either or both of the powers in **section 7(1)** in relation to a person if the constable has reasonable grounds to believe that the person is in or on the vehicle. 15
- (2) A constable who stops a vehicle under **subsection (1)** must—
(a) be wearing a uniform or distinctive cap, hat, or helmet with a badge of authority affixed to that cap, hat, or helmet; or 20
(b) be following immediately behind the vehicle in a motor vehicle displaying flashing blue lights, or flashing blue and red lights, and sounding a siren.
- (3) A constable exercising the stopping power conferred by **subsection (1)** must, immediately after the vehicle has stopped,— 25
(a) identify himself or herself to the driver of the vehicle; and
(b) tell the driver that the stopping power is being exercised under this section for the purpose of exercising powers under **section 7(1)**; and 30
(c) if not in uniform and if so required, produce evidence that he or she is a constable.
- (4) Without limiting **section 7(1)**, a constable exercising the stopping power conferred by **subsection (1)** may do any 1 35
or more of the following:
(a) search the vehicle to locate a person referred to in **subsection (1)**:

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- (b) search the vehicle to locate gang insignia that the constable may seize under **section 7(1)(b)**;
 - (c) require any person in or on the vehicle to state his or her name, address, and date of birth, or any of those particulars that the constable may specify: 5
 - (d) require the vehicle to remain stopped for as long as is reasonably necessary to exercise the powers—
 - (i) in **paragraphs (a), (b), and (c)**; and
 - (ii) in **section 7(1)**, in relation to a person referred to in **subsection (1)** of this section. 10
- (5) Every person commits an offence and is liable on conviction to a fine not exceeding \$1,000 who, without reasonable excuse,—
- (a) fails to stop as soon as practicable when required to do so by a constable exercising the power conferred by this section; or 15
 - (b) fails to comply with a requirement of a constable under **subsection (4)(c) or (d)**.
- Compare: 2009 No 1 (L) s 14
- 9 Filing charging document for offence** 20
- Only a constable may file a charging document for an offence against this Act.
- Compare: 2009 No 1 (L) s 15

Legislative history

28 June 2012	Introduction (Bill 33–1)
29 August 2012	First reading and referral to Law and Order Committee
20 March 2013	Reported from Law and Order Committee (Bill 33–2)
15 May 2013	Second reading
12 June 2013	Committee of the whole House
10 July 2013	Reported from Committee of the whole House (Bill 33–3)
