



COMMONWEALTH of VIRGINIA

Office of the Attorney General

Robert F. McDonnell
Attorney General

November 15, 2006

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Colonel W.S. (Steve) Flaherty
Superintendent, Department of State Police
P.O. Box 27472
Richmond, Virginia 23261-7475

Dear Colonel Flaherty:

I am responding to your request for an official advisory opinion in accordance with § 2.2-505 of the *Code of Virginia*.

Issue Presented

You ask whether the Superintendent of State Police is authorized to issue commemorative badges celebrating the 75th anniversary of the Department of State Police.

Response

It is my opinion that pursuant to § 52-9.1 and with the approval of the Governor, the Superintendent of State Police may design and adopt a distinctive commemorative badge to be worn by the officers of the Department of State Police.

Background

You relate that, with the approval of the Governor, you plan to give sworn employees the option to purchase a commemorative badge at their expense to wear during the 2007 anniversary year. You indicate that the proposed commemorative badge substantially is similar to the original badge issued in 1932. The commemorative badge will be worn from January 1, 2007, to December 31, 2007. Finally, you relate that sworn employees who elect not to purchase the commemorative badge will continue to wear the current badge design.

Applicable Law and Discussion

Section 52-9.1 provides that:

The Superintendent of State Police shall cause to be designed and, with the approval of the Governor, adopt a distinctive uniform with appropriate insignia for the use of the police officers appointed by him. Such uniform, when adopted, shall be worn by all such police officers when on patrol duty, and at such other times as the Superintendent may by regulation prescribe.

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This section vests the Superintendent with the authority to issue appropriate insignia, which could include a commemorative badge, to be worn by on-duty officers. Section 52-9.1 only requires that such uniforms (1) be distinct from other Virginia law enforcement officers, (2) have appropriate insignia, and (3) be approved by the Governor. Although it is a matter within your discretion, it is my opinion that the design you describe is appropriate and within the meaning of the statute.

Conclusion

Accordingly, it is my opinion that pursuant to § 52-9.1 and with the approval of the Governor, the Superintendent of State Police may design and adopt a distinctive commemorative badge to be worn by the officers of the Department of State Police.

Thank you for letting me be of service to you.

Sincerely,

A handwritten signature in black ink, reading "Robert F. McDonnell". The signature is written in a cursive style with a large, prominent "R" and "M".

Robert F. McDonnell