

Bill would ban profiteering on names of war dead

Severna Park fathers who lost sons in Iraq testify in favor of proposal

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For Kevin Kavanagh and Eric Herzberg, who both live in the Severna Park area and lost sons in the Iraq War, seeing an anti-war T-shirt for sale with the names of soldiers who died in combat was shocking.

Mr. Herzberg's son, also named Eric, had always been patriotic. When living in Canada, the younger Eric would shake his fist and yell at the television whenever an advertisement came on about how great the Olympic Canadian hockey team was going to be.

"(Soldiers) deserve a place of honor and respect and that's not on the back of somebody's shirt portraying a political message that's antithetical to everything that they believed in," Mr. Herzberg said yesterday. "I just think it is unconscionable."

Sen. Bryan Simonaire, R-Pasadena, and Del. Nic Kipke, R-Pasadena, have sponsored a bill that would prevent someone from using the name, portrait, picture or image of a soldier killed in action within the previous 50 years for commercial advantage without consent.

That consent could only be granted by a surviving spouse, personal representative or the majority of heirs. The penalty would be up to one year in jail and a \$2,500 fine.

Maryland has no laws regulating the commercial use of deceased soldiers' information. Arizona, Louisiana, Oklahoma and Texas have laws similar to the proposal from Mr. Simonaire and Mr. Kipke.

Mr. Herzberg and Mr. Kavanagh do not believe the names of their sons should be used on shirts that say "Bush Lied, They Died," or "If Any Question Why We Died ... Tell Them That Our Fathers Lied."

"When my son passed away, we specifically tried not to politicize anything," Mr. Kavanagh said.

Because of free speech protections, the bill is only meant to prevent people from using the names or images of deceased soldiers to promote merchandise, Mr. Simonaire said.

"It is not banning outright the product," he said. "This is not a free-speech issue where they are giving the things away. This is for profit."

Using the names of soldiers is just a "salacious" way for someone to draw attention to his or her merchandise, Mr. Kipke said.

"When you lose a child ... the last thing that you should have to do is fend off organizations or businesses that are trying to promote themselves or take advantage for their own personal gain," he said. "And the most vile form of this is someone doing it for profit."

The owner of a Flagstaff, Ariz., company that sells shirts with names of soldiers who have died in the Iraq War has defended his products as simply raising awareness of the pain inflicted by the conflict. "Every name matters, and will be retained to help underscore the horrific loss of life that has been caused by President Bush's rush to war under false pretenses," Dan Frazier writes on his company Web site, CarryaBigSticker. "The more plentiful and impassioned the pleas that I take names off these products, or stop selling them, the more aware I become of the depth of the pain and suffering that has been caused by the lies of President George W. Bush, and the more convinced I am that products like these should be part of the national debate over the merits of this war."

But Mr. Herzberg said it's wrong for someone to associate his son's name with political statements he would not have endorsed, and then try to profit from it.

"It is really insulting," he said. "You do have the right to make money, but not off the good names of people who have given everything they had for their country."

Sen. John Astle, D-Annapolis, who is a Vietnam War veteran and the vice-chairman of the Senate Finance Committee, which held a hearing on the bill yesterday, said he was interested in the bill.

"Having served in combat, I understand that whole thing," he said. "As a family member, I would be pretty angry."

It is hard to believe people would try and profit by using the names or images of dead soldiers, Mr. Astle said.

"It is just beyond the pale," he said.