

Amendment No. 456

Assembly Amendment to Assembly Bill No. 379

(BDR 15-1005)

Proposed by: Assembly Committee on Judiciary**Amends:** Summary: No Title: No Preamble: No Joint Sponsorship: No Digest: Yes

ASSEMBLY ACTION				Initial and Date	SENATE ACTION				Initial and Date
Adopted	☐	Lost	☐	_____	Adopted	☐	Lost	☐	_____
Concurred In	☐	Not	☐	_____	Concurred In	☐	Not	☐	_____
Receded	☐	Not	☐	_____	Receded	☐	Not	☐	_____

EXPLANATION: Matter in (1) *blue bold italics* is new language in the original bill; (2) *green bold italic underlining* is new language proposed in this amendment; (3) ~~red strikethrough~~ is deleted language in the original bill; (4) ~~purple double strikethrough~~ is language proposed to be deleted in this amendment; (5) orange double underlining is deleted language in the original bill that is proposed to be retained in this amendment; and (6) *green bold underlining* is newly added transitory language.

MNM/BAW



Date: 4/19/2011

A.B. No. 379—Establishes the crime of stolen valor. (BDR 15-1005)



ASSEMBLY BILL NO. 379—ASSEMBLYMEN HAMMOND; CARRILLO,
HANSEN, KITE, SHERWOOD AND WOODBURY

MARCH 21, 2011

Referred to Committee on Judiciary

SUMMARY—Establishes the crime of stolen valor. (BDR 15-1005)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for
Term of Imprisonment in County or City Jail or Detention
Facility.
Effect on the State: No.

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EXPLANATION – Matter in ***bolded italics*** is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to crimes; establishing the crime of stolen valor; providing a
penalty; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

The federal Stolen Valor Act of 2005 prohibits a person from falsely representing himself or herself, verbally or in writing, to have been awarded certain military decorations or awards. A person who violates this provision may be fined, imprisoned for not more than 6 months or both fined and imprisoned. (18 U.S.C. § 704(b)) The United States Court of Appeals for the Ninth Circuit recently held that the Stolen Valor Act is facially invalid pursuant to the First Amendment to the Constitution of the United States and is therefore unconstitutional. The Ninth Circuit Court found that the Act as currently drafted restricts free speech rights, but the Court suggested that the statute could be modified into a constitutional anti-fraud statute. (*United States v. Alvarez*, 617 F.3d 1198, 1212, 1217 (9th Cir. 2010)) The Court noted that to prove that a person is liable for fraud, it must be shown that the person knowingly made a false representation of fact to intentionally mislead another person and successfully misled the other person through such false representation. (*United States v. Alvarez*, 617 F.3d 1198, 1211 (9th Cir. 2010) (citing *Ill. ex rel. Madigan v. Telemarketing Assocs., Inc.*, 538 U.S. 600, 620 (2003)))

Existing Nevada law prohibits a person from willfully wearing the badge, button, insignie or rosette of any military order or of any secret order or society, or from using any such item to obtain aid, assistance or any other benefit or advantage, if the person is not entitled to wear or use any such items. (NRS 205.410) This bill repeals existing Nevada law and provides that a person commits the crime of stolen valor if the person knowingly, with the intent to mislead or defraud and with the intent to obtain ~~some benefit or~~ something of value, misleads or defrauds another person by ~~committing various acts concerning the~~ ***making any*** false representation of ~~himself or herself with relation to~~ ***his or her*** military service ~~and~~ ***obtains something of value. If the amount of the loss caused by the violation: (1) is less than \$2,500, the person who committed the violation is guilty of a gross misdemeanor; and (2) is \$2,500 or more, the person who committed the violation is guilty of a category E felony.***

THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 205 of NRS is hereby amended by adding thereto a new section to read as follows:

1. A person ~~shall not~~ is guilty of the crime of stolen valor if the person knowingly, with the intent to mislead or defraud:

(a) ~~Make~~ Makes any false representation of military service, including, without limitation, falsely representing his or her current or former military status, claiming that he or she served in the Armed Forces of the United States, a reserve component thereof or the National Guard, or that he or she served in a combat zone;

(b) ~~Make~~ Makes any such false representation with the intent to obtain ~~employment, be elected or appointed to public office or obtain~~ something of value; and

(c) ~~Mislead~~ Misleads or ~~defraud~~ defrauds another person through such false representation and ~~obtain employment, be elected or appointed to public office or obtain~~ obtains something of value.

2. ~~A person shall not knowingly, with the intent to mislead or defraud:~~

(a) ~~Falsely represent himself or herself by wearing any military decoration or medal authorized by Congress for the Armed Forces of the United States, any service medal or badge awarded to members of such forces, any ribbon, button or rosette of any such badge, decoration or medal, or any colorable imitation of such items;~~

(b) ~~Make such false representation with the intent to obtain something of value; and~~

(c) ~~Mislead or defraud another person through such false representation and obtain something of value;~~

3. ~~A person shall not knowingly, with the intent to mislead or defraud:~~

(a) ~~Falsely represent himself or herself, verbally or in writing, to have been awarded any military decoration or medal authorized by Congress for the Armed Forces of the United States, any service medal or badge awarded to members of such forces, any ribbon, button or rosette of any such badge, decoration or medal, or any colorable imitation of such items;~~

(b) ~~Make such false representation with the intent to obtain something of value; and~~

(c) ~~Mislead or defraud another person through such false representation and obtain something of value;~~

4. ~~A person shall not knowingly, with the intent to mislead or defraud:~~

(a) ~~Falsely claim, verbally or in writing, to be or to have been a member of any elite United States Special Operations Command (USSOCOM) of the Armed Forces of the United States, any of its component units or the predecessors of any such units by wearing or displaying the distinctive emblem, badge or pin thereof;~~

(b) ~~Make such false claims with the intent to obtain something of value; and~~

(c) ~~Mislead or defraud another person through such false claims and obtain something of value;~~

5. ~~A person shall not knowingly, with the intent to mislead or defraud:~~

(a) ~~Forge, counterfeit or falsely alter any military document of any military service of the United States, including, without limitation, a certificate of discharge or a military identification card or badge;~~

(b) ~~Use for any purpose, unlawfully possess, display or exhibit any such false document with the intent to obtain something of value; and~~

~~(c) Mislead or defraud another person through the use of any such false document and obtain something of value.~~

~~6. A person who violates any provision of this section is guilty of the crime of stolen valor. A person who violates:~~

~~(a) Subsection 1 is guilty of a misdemeanor.~~

~~(b) Subsection 2, except as otherwise provided in subsection 7 or 8, is guilty of a misdemeanor.~~

~~(c) Subsection 3, except as otherwise provided in subsection 7 or 8, is guilty of a misdemeanor.~~

~~(d) Subsection 4 is guilty of a misdemeanor.~~

~~(e) Subsection 5 is guilty of a gross misdemeanor.~~

~~7. A person who violates subsection 2 or 3 by wearing or falsely representing himself or herself to have been awarded a Distinguished Service Cross, Navy Cross, Air Force Cross, Silver Star or Purple Heart, or any replacement or duplicate medal for any such medal as authorized by law, is guilty of a gross misdemeanor.~~

~~8. A person who violates subsection 2 or 3 by wearing or falsely representing himself or herself to have been awarded a Medal of Honor is guilty of a category E felony and shall be punished as provided in NRS 193.130. If the amount of the loss caused by a violation of subsection 1:~~

~~(a) Is less than \$2,500, the person who committed the violation is guilty of a gross misdemeanor.~~

~~(b) Is \$2,500 or more, the person who committed the violation is guilty of a category E felony and shall be punished as provided in NRS 193.130.~~

Sec. 2. NRS 205.410 is hereby repealed.

TEXT OF REPEALED SECTION

205.410 Improper use of insignia.

Every person who shall willfully wear the badge, button, insigne or rosette of any military order or of any secret order or society, or any similitude thereof; or who shall use any such badge, button, insigne or rosette to obtain aid or assistance, or any other benefit or advantage, unless the person shall be entitled to so wear or use the same under the constitution, bylaws, rules and regulations of such order or society, shall be fined not more than \$500.