

SENATE BILL NO. 356—SENATORS HALSETH, GUSTAVSON, CEGAVSKE, COPENING; BREEDEN, BROWER, DENIS, HARDY, HORSFORD, KIECKHEFER, KIHUEN, LEE, LESLIE, MANENDO, MCGINNESS, PARKS, RHOADS, ROBERSON, SCHNEIDER, SETTELMAYER AND WIENER

MARCH 21, 2011

JOINT SPONSOR: ASSEMBLYMAN ANDERSON

Referred to Committee on Judiciary

SUMMARY—Establishes the crime of stolen valor. (BDR 15-999)

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:

1 The federal Stolen Valor Act of 2005 prohibits a person from falsely
2 representing himself or herself, verbally or in writing, to have been awarded certain
3 military decorations or awards. A person who violates this provision may be fined,
4 imprisoned for not more than 6 months or both fined and imprisoned. (18 U.S.C. §
5 704(b)) The United States Court of Appeals for the Ninth Circuit recently held that
6 the Stolen Valor Act is facially invalid pursuant to the First Amendment to the
7 Constitution of the United States and is therefore unconstitutional. The Ninth
8 Circuit Court found that the Act as currently drafted restricts free speech rights, but
9 the Court suggested that the statute could be modified into a constitutional anti-
10 fraud statute. (*United States v. Alvarez*, 617 F.3d 1198, 1212, 1217 (9th Cir. 2010))
11 The Court noted that to prove that a person is liable for fraud, it must be shown that
12 the person knowingly made a false representation of fact to intentionally mislead
13 another person and successfully misled the other person through such false
14 representation. (*United States v. Alvarez*, 617 F.3d 1198, 1211 (9th Cir. 2010)
15 (citing *Ill. ex rel. Madigan v. Telemarketing Assocs., Inc.*, 538 U.S. 600, 620
16 (2003)))



Existing Nevada law prohibits a person from willfully wearing the badge, button, insignia 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 false representation of himself or herself with relation to military service.

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 knowingly, with the intent to mislead or defraud:

(a) Make 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 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 or defraud another person through such false representation and obtain employment, be elected or appointed to public office or obtain 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



1 service medal or badge awarded to members of such forces, any
2 ribbon, button or rosette of any such badge, decoration or medal,
3 or any colorable imitation of such items;

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

6 (c) Mislead or defraud another person through such false
7 representation and obtain something of value.

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

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

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

17 (c) Mislead or defraud another person through such false
18 claims and obtain something of value.

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

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

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

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

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

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

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

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

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

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

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



- 1 **8. A person who violates subsection 2 or 3 by wearing or**
2 ***falsely representing himself or herself to have been awarded a***
3 ***Medal of Honor is guilty of a category E felony and shall be***
4 ***punished as provided in NRS 193.130.***
5 **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.

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