

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:

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)))

17 Existing Nevada law prohibits a person from willfully wearing the badge,
18 button, insigne or rosette of any military order or of any secret order or society, or
19 from using any such item to obtain aid, assistance or any other benefit or
20 advantage, if the person is not entitled to wear or use any such items. (NRS
21 205.410) This bill repeals existing Nevada law and provides that a person commits
22 the crime of stolen valor if the person knowingly, with the intent to mislead or
23 defraud and with the intent to obtain something of value, misleads or defrauds
24 another person by making any false representation of his or her military service and



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25 obtains something of value. If the amount of the loss caused by the violation: (1) is
26 less than \$2,500, the person who committed the violation is guilty of a gross
27 misdemeanor; and (2) is \$2,500 or more, the person who committed the violation is
28 guilty of a category E felony.

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

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

3 ***1. A person is guilty of the crime of stolen valor if the person***
4 ***knowingly, with the intent to mislead or defraud:***

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

11 ***(b) Makes any such false representation with the intent to***
12 ***obtain something of value; and***

13 ***(c) Misleads or defrauds another person through such false***
14 ***representation and obtains something of value.***

15 ***2. If the amount of the loss caused by a violation of***
16 ***subsection 1:***

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

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

22 **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.

