

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)))



\* S B 3 5 6 R 1 \*

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 some benefit or something of monetary value,  
24 misleads or defrauds another person by committing various acts concerning the  
25 false representation of himself or herself with relation to military service.

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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 shall not knowingly, with the intent to mislead or*  
4 *defraud:*

5 *(a) Make 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) Make any such false representation with the intent to*  
12 *obtain employment, be elected or appointed to public office or*  
13 *obtain something of monetary value; and*

14 *(c) Mislead or defraud another person through such false*  
15 *representation and obtain employment, be elected or appointed to*  
16 *public office or obtain something of monetary value.*

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

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

25 *(b) Make such false representation with the intent to obtain*  
26 *something of monetary value; and*

27 *(c) Mislead or defraud another person through such false*  
28 *representation and obtain something of monetary value.*

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

31 *(a) Falsely represent himself or herself, verbally or in writing,*  
32 *to have been awarded any military decoration or medal authorized*  
33 *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 monetary value; and*

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

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

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

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**TEXT OF REPEALED SECTION**

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**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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