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AB-153 Military fraud. (2017-2018)

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Assembly Bill No. 153

CHAPTER 576

An act to amend Section 3003 of the Government Code, and to amend Section 532b of the Penal Code, relating to military fraud.

[Approved by Governor October 08, 2017. Filed with Secretary of State October 08, 2017.]

LEGISLATIVE COUNSEL'S DIGEST

AB 153, Chávez. Military fraud.

Existing law requires certain elected officers to forfeit their office upon the conviction of a crime pursuant to the federal Stolen Valor Act of 2005 that involves a false claim of receipt of any military decoration or medal, as specified, or the California Stolen Valor Act that involves a false claim, made with the intent to defraud, that the person is a veteran or a member of the Armed Forces of the United States. Existing law, the federal Stolen Valor Act of 2013, prohibits a person, with the intent to obtain money, property, or other tangible property, from fraudulently holding oneself out to be a recipient of a military decoration or medal, as specified.

This bill would instead require these elected officers to forfeit their office upon the conviction of a crime pursuant to the federal Stolen Valor Act of 2013 or the California Stolen Valor Act that involves a fraudulent claim, made with the intent to obtain money, property, or other tangible benefit, as defined, that the person is a veteran or a member of the Armed Forces of the United States, as prescribed in those acts.

Existing law makes it a misdemeanor for a person to falsely represent himself or herself as a veteran or member of the Armed Forces of the United States in connection with specified acts. Existing law provides that any person who, orally, in writing, or by wearing any military decoration, falsely represents himself or herself to have been awarded any military decoration, with the intent to defraud, is guilty of a misdemeanor.

This bill would conform those provisions to the federal Stolen Valor Act of 2013, and impose a misdemeanor only if the prescribed actions described above are made fraudulently with the intent to obtain money, property, or other tangible benefit, as defined. The bill would expand the above-described crime related to misrepresentation to include a person who fraudulently represents himself or herself as a veteran or member of other specified armed forces with the intent to obtain money, property, or other tangible benefit. The bill would additionally make it a misdemeanor for a person to misrepresent himself or herself as a member or veteran of specified armed forces in connection with certain acts, such as, among other things, the forgery or use of falsified military documentation, or for purposes of employment or promoting a business, charity, or other endeavor, as prescribed.

By creating new crimes, this bill would impose a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: yes

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 3003 of the Government Code is amended to read:

3003. (a) An elected officer of the state or a city, county, city and county, or district in this state forfeits his or her office upon the conviction of a crime pursuant to the federal Stolen Valor Act of 2013 (18 U.S.C. Sec. 704) or the California Stolen Valor Act (as specified in Section 532b of the Penal Code), that involves a fraudulent claim, made with the intent to obtain money, property, or other tangible benefit, that the person is a veteran or a member of the Armed Forces of the United States, as prescribed in those acts.

(b) For purposes of this section, the following terms shall have the following meanings:

(1) "District" means any agency of the state formed pursuant to general law or special act, for the local performance of governmental or proprietary functions within limited boundaries.

(2) "Tangible benefit" means financial remuneration, an effect on the outcome of a criminal or civil court proceeding, or any benefit relating to service in the military that is provided by a federal, state, or local governmental entity.

SEC. 2. Section 532b of the Penal Code is amended to read:

532b. (a) A person who fraudulently represents himself or herself as a veteran or ex-serviceman of a war in which the United States was engaged, in connection with the soliciting of aid or the sale or attempted sale of any property, is guilty of a misdemeanor.

(b) A person who fraudulently claims, or presents himself or herself, to be a veteran or member of the Armed Forces of the United States, the California National Guard, the State Military Reserve, the Naval Militia, the national guard of any other state, or any other reserve component of the Armed Forces of the United States, with the intent to obtain money, property, or other tangible benefit, is guilty of a misdemeanor.

(c) (1) Except as provided in paragraph (2), a person who, orally, in writing, or by wearing any military decoration, fraudulently represents himself or herself to have been awarded a military decoration, with the intent to obtain money, property, or other tangible benefit, is guilty of a misdemeanor.

(2) This offense is an infraction or a misdemeanor, subject to Sections 19.6, 19.7, and 19.8, if the person committing the offense is a veteran of the Armed Forces of the United States.

(d) A person who forges documentation reflecting the awarding of a military decoration that he or she has not received for the purposes of obtaining money, property, or receiving a tangible benefit is guilty of a misdemeanor.

(e) A person who knowingly, with the intent to impersonate and to deceive, for the purposes of obtaining money, property, or receiving a tangible benefit, misrepresents himself or herself as a member or veteran of the Armed Forces of the United States, the California National Guard, the State Military Reserve, or the Naval Militia by wearing the uniform or military decoration authorized for use by the members or veterans of those forces, is guilty of a misdemeanor.

(f) A person who knowingly utilizes falsified military identification for the purposes of obtaining money, property, or receiving a tangible benefit, is guilty of a misdemeanor.

(g) A person who knowingly, with the intent to impersonate, for the purposes of promoting a business, charity, or endeavor, misrepresents himself or herself as a member or veteran of the Armed Forces of the United States, the California National Guard, the State Military Reserve, or the Naval Militia by wearing the uniform or military decoration authorized for use by the members or veterans of those forces, is guilty of a misdemeanor.

(h) A person who knowingly, with the intent to gain an advantage for employment purposes, misrepresents himself or herself as a member or veteran of the Armed Forces of the United States, the California National Guard, the State Military Reserve, or the Naval Militia by wearing the uniform or military decoration authorized for use by the members or veterans of those forces, is guilty of a misdemeanor.

(i) This section does not apply to face-to-face solicitations involving less than ten dollars (\$10).

(j) This section, Section 3003 of the Government Code, and Section 1821 of the Military and Veterans Code shall be known, and may be cited as, the California Stolen Valor Act.

(k) For purposes of this section, the following terms shall have the following meanings:

(1) "Military decoration" means any decoration or medal from the Armed Forces of the United States, the California National Guard, the State Military Reserve, or the Naval Militia, or any service medals or badges awarded to the members of those forces, or the ribbon, button, or rosette of that badge, decoration, or medal, or any colorable imitation of that item.

(2) "Tangible benefit" means financial remuneration, an effect on the outcome of a criminal or civil court proceeding, or any benefit relating to service in the military that is provided by a federal, state, or local governmental entity.

SEC. 3. No reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because the only costs that may be incurred by a local agency or school district will be incurred because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction, within the meaning of Section 17556 of the Government Code, or changes the definition of a crime within the meaning of Section 6 of Article XIII B of the California Constitution.