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AB-1899 Crimes: false personation. (2021-2022)

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Assembly Bill No. 1899

CHAPTER 954

An act to amend Sections 538d, 538e, 538f, 538g, and 538h of the Penal Code, relating to crimes.

[Approved by Governor September 30, 2022. Filed with Secretary of State September 30, 2022.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1899, Mathis. Crimes: false personation.

Existing law prohibits credibly impersonating a peace officer, firefighter, or employee of a public utility, state or local government agency, or search and rescue team, as specified. A violation of these prohibitions is punishable as a misdemeanor.

This bill would extend these offenses to include impersonation through or on an internet website, or by other electronic means, for purposes of defrauding another.

By expanding the application of existing 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 538d of the Penal Code is amended to read:

538d. (a) Any person other than one who by law is given the authority of a peace officer, who willfully wears, exhibits, or uses the authorized uniform, insignia, emblem, device, label, certificate, card, or writing, of a peace officer, with the intent of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that they are a peace officer, or who willfully and credibly impersonates a peace officer through or on an internet website, or by other electronic means, for purposes of defrauding another, is guilty of a misdemeanor.

(b) (1) Any person, other than the one who by law is given the authority of a peace officer, who willfully wears, exhibits, or uses the badge of a peace officer with the intent of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that they are a peace officer, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine.

(2) Any person who willfully wears or uses any badge that falsely purports to be authorized for the use of one who by law is given the authority of a peace officer, or which so resembles the authorized badge of a peace officer as would deceive any ordinary reasonable person into believing that it is authorized for the use of one who by law is given the authority of a peace officer, for the purpose of fraudulently impersonating a peace officer, or of fraudulently inducing the belief that they are a peace officer, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine.

(c) (1) Except as provided in subdivision (d), any person who willfully wears, exhibits, or uses, or who willfully makes, sells, loans, gives, or transfers to another, any badge, insignia, emblem, device, or any label, certificate, card, or writing, which falsely purports to be authorized for the use of one who by law is given the authority of a peace officer, or which so resembles the authorized badge, insignia, emblem, device, label, certificate, card, or writing of a peace officer as would deceive an ordinary reasonable person into believing that it is authorized for the use of one who by law is given the authority of a peace officer, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed six months, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine, except that any person who makes or sells any badge under the circumstances described in this subdivision is subject to a fine not to exceed fifteen thousand dollars (\$15,000).

(2) A local law enforcement agency in the jurisdiction that files charges against a person for a violation of paragraph (1) shall seize the badge, insignia, emblem, device, label, certificate, card, or writing described in paragraph (1).

(d) (1) The head of an agency that employs peace officers, as defined in Sections 830.1 and 830.2, is authorized to issue identification in the form of a badge, insignia, emblem, device, label, certificate, card, or writing that clearly states that the person has honorably retired following service as a peace officer from that agency. The identification authorized pursuant to this subdivision is separate and distinct from the identification authorized by Article 2 (commencing with Section 25450) of Chapter 2 of Division 5 of Title 4 of Part 6.

(2) If the head of an agency issues a badge to an honorably retired peace officer that is not affixed to a plaque or other memento commemorating the retiree's service for the agency, the words "Honorably Retired" shall be clearly visible above, underneath, or on the badge itself.

(3) The head of an agency that employs peace officers as defined in Sections 830.1 and 830.2 is authorized to revoke identification granted pursuant to this subdivision in the event of misuse or abuse.

(4) For the purposes of this subdivision, the term "honorably retired" does not include an officer who has agreed to a service retirement in lieu of termination.

(e) (1) Vendors of law enforcement uniforms shall verify that a person purchasing a uniform identifying a law enforcement agency is an employee of the agency identified on the uniform. Presentation and examination of a valid identification card with a picture of the person purchasing the uniform and identification, on the letterhead of the law enforcement agency, of the person buying the uniform as an employee of the agency identified on the uniform shall be sufficient verification.

(2) Any uniform vendor who sells a uniform identifying a law enforcement agency, without verifying that the purchaser is an employee of the agency, is guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000).

(3) This subdivision shall not apply if the uniform is to be used solely as a prop for a motion picture, television, video production, or a theatrical event, and prior written permission has been obtained from the identified law enforcement agency.

SEC. 2. Section 538e of the Penal Code is amended to read:

538e. (a) Any person, other than an officer or member of a fire department, who willfully wears, exhibits, or uses the authorized uniform, insignia, emblem, device, label, certificate, card, or writing of an officer or member of a fire department or a deputy state fire marshal, with the intent of fraudulently impersonating an officer or member of a fire department or the Office of the State Fire Marshal, or of fraudulently inducing the belief that they are an officer or member of a fire department or the Office of the State Fire Marshal, or who willfully and credibly impersonates such an officer or member on an internet website, or by other electronic means, for purposes of defrauding another, is guilty of a misdemeanor.

(b) (1) Any person, other than the one who by law is given the authority of an officer or member of a fire department, or a deputy state fire marshal, who willfully wears, exhibits, or uses the badge of a fire department or the Office of the State Fire Marshal with the intent of fraudulently impersonating an officer, or member of a fire department, or a deputy state fire marshal, or of fraudulently inducing the belief that they are an officer or member of a fire department, or a deputy state fire marshal, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine.

(2) Any person who willfully wears or uses any badge that falsely purports to be authorized for the use of one who by law is given the authority of an officer or member of a fire department, or a deputy state fire marshal, or which so resembles the

authorized badge of an officer or member of a fire department, or a deputy state fire marshal as would deceive any ordinary reasonable person into believing that it is authorized for the use of one who by law is given the authority of an officer or member of a fire department or a deputy state fire marshal, for the purpose of fraudulently impersonating an officer or member of a fire department, or a deputy state fire marshal, or of fraudulently inducing the belief that they are an officer or member of a fire department, or a deputy state fire marshal, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine.

(c) Any person who willfully wears, exhibits, or uses, or who willfully makes, sells, loans, gives, or transfers to another, any badge, insignia, emblem, device, or any label, certificate, card, or writing, which falsely purports to be authorized for the use of one who by law is given the authority of an officer, or member of a fire department or a deputy state fire marshal, or which so resembles the authorized badge, insignia, emblem, device, label, certificate, card, or writing of an officer or member of a fire department or a deputy state fire marshal as would deceive an ordinary reasonable person into believing that it is authorized for use by an officer or member of a fire department or a deputy state fire marshal, is guilty of a misdemeanor, except that any person who makes or sells any badge under the circumstances described in this subdivision is guilty of a misdemeanor punishable by a fine not to exceed fifteen thousand dollars (\$15,000).

(d) Any person who, for the purpose of selling, leasing or otherwise disposing of merchandise, supplies or equipment used in fire prevention or suppression, falsely represents, in any manner whatsoever, to any other person that they are a fire marshal, fire inspector or member of a fire department, or that they have the approval, endorsement or authorization of any fire marshal, fire inspector or fire department, or member thereof, is guilty of a misdemeanor.

(e) (1) Vendors of uniforms shall verify that a person purchasing a uniform identifying a firefighting agency or department is an employee or authorized member of the agency or department identified on the uniform. Examination of a valid photo identification card issued by a firefighting agency or department that designates the person as an employee or authorized member of the agency or department identified on the uniform shall be sufficient verification.

(2) If a person purchasing a uniform does not have a valid photo identification card issued by a firefighting agency or department, the person shall present an official letter of authorization from the firefighting agency or department designating that person as an employee or authorized member of the agency or department. The person shall also present a government issued photo identification card bearing the same name as listed in the letter of authorization issued by the agency or department.

(3) Any uniform vendor who sells a uniform identifying a firefighting agency or department without verifying that the purchaser is an employee or authorized member of the agency or department is guilty of a misdemeanor, punishable by a fine of not more than one thousand dollars (\$1,000).

(4) This subdivision shall not apply if the uniform is to be used solely as a prop for a motion picture, television, video production, or a theatrical event, and prior written permission has been obtained from the identified firefighting agency or department.

(f) This section shall not apply to either of the following:

(1) Use of a badge solely as a prop for a motion picture, television, or video production, or an entertainment or theatrical event.

(2) A badge supplied by a recognized employee organization as defined in Section 3501 of the Government Code representing firefighters or a state or international organization to which it is affiliated.

SEC. 3. Section 538f of the Penal Code is amended to read:

538f. Any person, other than an employee of a public utility or district as defined in Sections 216 and 11503 of the Public Utilities Code, respectively, who willfully presents themselves to a utility or district customer with the intent of fraudulently personating an employee of a public utility or district, or of fraudulently inducing the belief that they are an employee of a public utility or district, or who willfully and credibly impersonates an employee of a public utility or district on an internet website, or by other electronic means, for purposes of defrauding another, is guilty of a misdemeanor and shall be punished by imprisonment in a county jail not to exceed six months, or by a fine not to exceed one thousand dollars (\$1,000), or by both that fine and imprisonment. Nothing in this section shall be construed to prohibit conduct that arguably constitutes protected activity under state labor law or the National Labor Relations Act (Title 29, United States Code, Section 151 and following).

SEC. 4. Section 538g of the Penal Code is amended to read:

538g. (a) Any person, other than a state, county, city, special district, or city and county officer or employee, who willfully wears, exhibits, or uses the authorized badge, photographic identification card, or insignia of a state, county, city, special district, or city and county officer or employee, with the intent of fraudulently personating a state, county, city, special district, or city and county officer or employee, or of fraudulently inducing the belief that they are a state, county, city, special district, or city and county

officer or employee, or who willfully and credibly impersonates such an officer or member on an internet website, or by other electronic means, for purposes of defrauding another, is guilty of a misdemeanor.

(b) Any person who willfully wears, exhibits, or uses, or willfully makes, sells, loans, gives, or transfers to another, any badge, photographic identification card, or insignia, which falsely purports to be for the use of a state, county, city, special district, or city and county officer or employee, or which so resembles the authorized badge, photographic identification card, or insignia of a state, county, city, special district, or city and county officer or employee as would deceive an ordinary reasonable person into believing that it is authorized for use by a state, county, city, special district, or city and county officer or employee, is guilty of a misdemeanor, except that any person who makes or sells any badge under the circumstances described in this subdivision is subject to a fine not to exceed fifteen thousand dollars (\$15,000).

(c) This section shall not apply to either of the following:

(1) Use of a badge solely as a prop for a motion picture, television, or video production, or an entertainment or theatrical event.

(2) A badge supplied by a recognized employee organization as defined in Section 3501 of the Government Code or a state or international organization to which it is affiliated.

SEC. 5. Section 538h of the Penal Code is amended to read:

538h. (a) Any person, other than an officer or member of a government agency managed or affiliated search and rescue unit or team, who willfully wears, exhibits, or uses the authorized uniform, insignia, emblem, device, label, certificate, card, or writing of an officer or member of a government agency managed or affiliated search and rescue unit or team, with the intent of fraudulently impersonating an officer or member of a government agency managed or affiliated search and rescue unit or team, or of fraudulently inducing the belief that they are an officer or member of a government agency managed or affiliated search and rescue unit or team, or uses the same to obtain aid, money, or assistance within this state, or who willfully and credibly impersonates such an officer or member on an internet website, or by other electronic means, for purposes of defrauding another, is guilty of a misdemeanor.

(b) (1) Any person, other than the one who by law is given the authority of an officer or member of a government agency managed or affiliated search and rescue unit or team, who willfully wears, exhibits, or uses the badge of a government agency managed or affiliated search and rescue unit or team with the intent of fraudulently impersonating an officer or member of a government agency managed or affiliated search and rescue unit or team, or fraudulently inducing the belief that they are an officer or member of a government agency managed or affiliated search and rescue unit or team, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars (\$2,000), or by both that imprisonment and fine.

(2) Any person who willfully wears or uses any badge that falsely purports to be authorized for the use of one who by law is given the authority of an officer or member of a government agency managed or affiliated search and rescue unit or team, or that resembles the authorized badge of an officer or member of a government agency managed or affiliated search and rescue unit or team as would deceive any ordinary reasonable person into believing that it is authorized for the use of one who by law is given the authority of an officer or member of a government agency managed or affiliated search and rescue unit or team, for the purpose of fraudulently impersonating an officer or member of a government agency managed or affiliated search and rescue unit or team, or of fraudulently inducing the belief that they are an officer or member of a government agency managed or affiliated search and rescue unit or team, is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed one year, by a fine not to exceed two thousand dollars (\$2,000), or by both that fine and imprisonment.

(c) As used in this section, the following terms have the following meanings:

(1) "Member" means any natural person who is registered with an accredited disaster council for the purpose of engaging in disaster service without pay or other consideration. Food and lodging provided, or expenses reimbursed for these items, during a member's activation do not constitute other consideration.

(2) "Search and rescue unit or team" means an entity engaged in the acts of searching for, rescuing, or recovering by means of ground, marine, or air activity, any person that becomes lost, injured, or is killed while outdoors or as a result of a natural or manmade disaster, including instances involving searches for downed or missing aircraft.

SEC. 6. 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.