



Legislative Bulletin.....May 20, 2013

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**H.R. 258 – Stolen Valor Act of 2013
(Heck, R-NV)**

Order of Business: H.R. 258 is scheduled to be considered on Monday, May 20, 2013, under a motion to suspend the rules and pass the bill requiring a two-thirds majority vote for passage.

Summary: H.R. 258 amends the Stolen Valor Act of 2005¹ to narrow its application to those who fraudulently misrepresent their status as a decorated serviceman or servicewoman in the U.S. Armed forces in order to materially profit from such a fraudulent claim. Specifically, the bill states, “Whoever, with intent to obtain money, property, or other tangible benefit, fraudulently holds oneself out to be a recipient of a decoration or medal [including the Congressional Medal of Honor, distinguished-service cross, Navy cross, Air Force cross, Silver Star, Purple Heart, or Combat Badge] shall be fined under this title, imprisoned not more than one year, or both. The bill exempts from criminal fines or prison time those who wear military decorations or medals that do not belong to them.

Additional Background: The bill is the legislative response to the Supreme Court decision decided in June of last year in *United States v. Alvarez*², which struck down the law as an unconstitutional abridgement of the First Amendment’s Freedom of Speech against an elected municipal water board member who lied about his alleged previous service as a marine and receipt of the Congressional Medal of Honor. The court stated that the law “sought to control and suppress all false statements on this one subject, without regard as to whether the lie was made for the purpose of material gain.”

Justices Alito, Scalia, and Thomas dissented in the case arguing that false statements about military medals merit no First Amendment protection whatsoever, while recognizing, in general, that false statements may be protected when laws restricting them might chill otherwise

¹ P.L. 109-437.

² Decided June 28, 2012 by a [6-3 decision](#).

protected speech. However, the dissenters argued that the Stolen Valor Act does not chill protected speech because lying about alleged receipt of military honors does not relate to any protected expression, and the lies cause harm to those families and individuals who received these medals legitimately.³ Some [reports](#) indicate that since 2009, there have been over 200 alleged violations of the Stolen Valor Act.

This [website](#) lists Members of the U.S. Armed forces who have received service decorations for their acts of valor.

A similar bill to H.R. 258 passed the House last year by a vote of [410-3](#) (H.R. 1775) on September 13, 2012.

Committee Action: Representative Joe Heck (R-NV) introduced H.R. 258 on January 15, 2013. On March 14, 2013, the full Judiciary Committee marked up the bill and reported it out favorably by voice vote.

Administration Position: No Statement of Administration Policy has been released.

Cost to Taxpayers: The Congressional Budget Office (CBO) released a [cost estimate](#) for the bill on March 19, 2013, and stated that implementing it would have no significant costs to the federal government.

Does the Bill Expand the Size and Scope of the Federal Government? The bill would allow the government to pursue cases it otherwise would not be able to prosecute. However, the CBO states, that because of the “relatively small number of additional offenders,” any law enforcement costs increases would not be significant and would be subject to the availability of future appropriated funds.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? The CBO report explains that the bill contains a new private-sector mandate by prohibiting individuals from falsely claiming to have received a military medal or decoration in exchange for obtaining “money, property, or other tangible benefits.” It estimates that such a mandate falls below the annual threshold established in the Unfunded Mandates Reform Act (UMRA, \$150 million in 2013, adjusted annually for inflation).

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits? No.

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states, “Congress has the power to enact this legislation pursuant to the following: The power granted to Congress under Article I, Section 8, Clause 18 of the United States Constitution, to make all laws which shall be necessary and proper for carrying into execution the foregoing Powers, and all other powers vested by the Constitution in the Government of the United States, or in any Department or officer thereof.”

³ <http://lawprofessors.typepad.com/conlaw/2012/06/supreme-court-finds-criminalizing-stolen-valor-unconstitutional.html>

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H.R. 1073 – Nuclear Terrorism Conventions Implementation and Safety of Maritime Navigation Act of 2013 (Sensenbrenner, R-WI)

Order of Business: H.R. 1073 is scheduled to be considered on Monday, May 20, 2013, under a motion to suspend the rules and pass the bill requiring a two-thirds majority vote for passage.

Summary: H.R. 1073 amends current law by expanding the federal penalties and prison times for convictions involving violence or hijacking against U.S. ships and maritime platforms involving weapons of mass destruction. Specifically, the bill prohibits hijacking a ship or maritime platform in an attempt to coerce government action, or to use a ship to discharge hazardous substances. It also prohibits the maritime transport of explosive or radioactive materials, biological, chemical or nuclear weapons if such is being transported with the intention of killing, injuring, or threatening a population. Convictions carry a maximum prison sentence of up to 20 years (or life in prison if the violation results in a death) or five years for threats to commit any of these new offenses.

The bill also prohibits the possession of radioactive material with the intent to cause bodily harm or damage to the environment or property as well as interfering with the operation of a nuclear facility. Convictions for these offenses (including threats to carry out such) involve a life sentence and a \$2 million fine.

Background: The bill's purpose is to bring U.S. law into conformity with many international maritime treaties including the 1979 U.N. International Convention against the Taking of Hostages, the 1979 Rome Vienna Treaty on the Convention on the Physical Protection of Nuclear Material, and the 1988 Rome Protocol for the Suppression of Unlawful Acts against the Safety of Fixed Platforms Located on the Continental Shelf.

It is similar to a bill (H.R. 5889), which passed the House by voice vote last year on June 28, 2012. Then Judiciary Chairman Lamar Smith (R-TX) referred to H.R. 5889 during its consideration by stating, "Advancing this legislation is a step toward better international cooperation and information sharing as it relates to international terrorism and the proliferation of weapons of mass destruction."

Committee Action: Representative James F. Sensenbrenner, Jr. (R-WI) introduced H.R. 1079 on March 12, 2013. On March 14, 2013, the full Judiciary Committee reported the bill favorably by a voice vote.

Administration Position: No Statement of Administration Policy has been released.

Cost to Taxpayers: The Congressional Budget Office (CBO) released a [cost estimate](#) for H.R. 1073 on March 19, 2013, explaining that implementing the bill "would have no significant cost

to the federal government.” Any increase in costs for law enforcement, court proceedings, or prison operations would not be significant and would be subject to the availability of appropriated funds.

Does the Bill Expand the Size and Scope of the Federal Government? The legislation creates new federal crimes for acts of violence on or against ships or maritime platforms and criminal acts involving the use of nuclear materials.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates? The CBO report indicates that the CBO did not review the bill for any intergovernmental or private-sector mandates because current law excludes this analysis of legislation necessary for the ratification or implementation of international treaty obligations.

Does the Bill Contain Earmarks/Limited Tax Benefits/Limited Tariff Benefits? No.

Constitutional Authority: The Constitutional Authority Statement accompanying the bill upon introduction states, “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clause 1, of the Constitution; Article I, Section 8, Clause 3, of the Constitution; Article II, Section 2, Clause 2, of the Constitution.”

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