

AMENDED IN ASSEMBLY APRIL 21, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

ASSEMBLY BILL

No. 1153

Introduced by Assembly Member Bermudez

February 21, 2003

An act to amend Section 538e of, and to add Section 538g to, the Penal Code, relating to crime, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

AB 1153, as amended, Bermudez. Crime.

Existing law provides that a person who willfully makes or sells any badge which falsely purports to be authorized for the use of a peace officer, or which so resembles the authorized badge of a peace officer, as specified, is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not exceeding one year, a fine not exceeding \$15,000, or both that imprisonment and fine.

This bill would provide that any person who willfully makes or sells any *unauthorized or replica* badge ~~which falsely purports to be authorized for the use of an officer or member of a fire department or deputy state fire marshal,~~ or which so resembles the authorized badge of an officer or member of a fire department or deputy state fire marshal, as specified, is guilty of a misdemeanor punishable by imprisonment in a county jail for a period not exceeding ~~six months~~ *one year*, a fine not exceeding \$15,000, or by both that imprisonment and fine. *This bill would provide an exception to these provisions for the use of a badge in a fictitious or historical depiction, as specified.*

Existing law provides that any person, other than one who is a peace officer or an officer or member of a fire department, who willfully wears, exhibits, or uses a badge, insignia, emblem, certificate, card, or writing of a peace officer or of an officer or member of a fire department, with specified intent, or any person who does the same with respect to any badge, insignia, emblem, 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 of an officer or member of a fire department, or which so resembles such an item, is guilty of a misdemeanor.

This bill would provide that any person, other than one who is a state, county, city, special district, or city and county officer or employee, who willfully wears or uses a badge ~~or~~, photographic identification card, *or insignia* of a state, county, city, special district, or city and county officer or employee, with specified intent, is guilty of a misdemeanor. This bill would also provide that any person who does the same with respect to any badge ~~or~~ photographic identification card or who willfully makes or sells any *unauthorized or replica* badge ~~or~~, photographic identification card ~~which falsely purports to be authorized for the use of a state, county, city, special district, or city and county officer or employee, or, or insignia~~ which so resembles such an item, is guilty of a misdemeanor, punishable by imprisonment in a county jail for a period not to exceed one year, a fine not to exceed \$15,000, or by both that imprisonment and fine. *This bill would provide an exception to these provisions for the use of a badge in a fictitious or historical depiction, as specified.* Because this bill would change the definition of a crime, and would create a new crime, it would impose a state-mandated local program. This bill would declare that it is to take effect immediately as an urgency statute.

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.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes. State-mandated local program: yes.



The people of the State of California do enact as follows:

1 SECTION 1. Section 538e of the Penal Code is amended to
2 read:

3 538e. (a) Any person, other than an officer or member of a
4 fire department, who willfully wears, exhibits, or uses the
5 authorized badge, insignia, emblem, device, label, certificate,
6 card, or writing of an officer or member of a fire department or a
7 deputy state fire marshal, with the intent of fraudulently
8 personating an officer or member of a fire department or the Office
9 of the State Fire Marshal, or of fraudulently inducing the belief that
10 he *or she* is an officer or member of a fire department or the Office
11 of the State Fire Marshal, is guilty of a misdemeanor.

12 ~~Any~~

13 (b) Any person who willfully wears, exhibits, or uses, or who
14 willfully makes, sells, loans, gives, or transfers to another, any
15 *unauthorized or replica* badge, insignia, emblem, device, or any
16 label, certificate, card, or writing, ~~which falsely purports to be for~~
17 ~~the use of an officer or member of a fire department or deputy state~~
18 ~~fire marshal, or which so resembles the authorized badge, insignia,~~
19 *insignia*, emblem, device, label, certificate, card, or writing of an
20 officer or member of a fire department as would deceive an
21 ordinary reasonable person into believing that it is authorized for
22 use by an officer or member of a fire department or a deputy state
23 fire marshal, is guilty of a misdemeanor, except that any person
24 who makes or sells any badge under the circumstances described
25 in this subdivision is guilty of a misdemeanor punishable by
26 imprisonment in a county jail not exceeding ~~six months~~ *one year*,
27 or by a fine not to exceed fifteen thousand dollars (\$15,000), or by
28 both that imprisonment and fine.

29 ~~Any~~

30 (c) Any person who, for the purpose of selling, leasing or
31 otherwise disposing of merchandise, supplies or equipment used
32 in fire prevention or suppression, falsely represents, in any manner
33 whatsoever, to any other person that he *or she* is a fire marshal, fire
34 inspector or member of a fire department, or that he *or she* has the
35 approval, endorsement or authorization of any fire marshal, fire
36 inspector or fire department, or member thereof, is guilty of a
37 misdemeanor.

38 (d) *This section shall not apply to either of the following:*



1 (1) Use of a badge in the fictitious or historical visual depiction
2 of either a public officer or employee.

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

7 SEC. 2. Section 538g is added to the Penal Code, to read:

8 538g. (a) Any person, other than a state, county, city, special
9 district, or city and county officer or employee, who willfully
10 wears, exhibits, or uses the authorized badge or, photographic
11 identification card, or insignia of a state, county, city, special
12 district, or city and county officer or employee, with the intent of
13 fraudulently personating a state, county, city, special district, or
14 city and county officer or employee, or of fraudulently inducing
15 the belief that he or she is a state, county, city, special district, or
16 city and county officer or employee, is guilty of a misdemeanor.

17 (b) Any person who willfully wears, exhibits, or uses, or
18 willfully makes, sells, loans, gives, or transfers to another, any
19 unauthorized or replica badge or photographic identification card
20 which falsely purports to be for the use of a state, county, city,
21 special district, or city and county officer or employee, or which
22 so resembles the authorized badge or, photographic identification
23 card, or insignia of a state, county, city, special district, or city and
24 county officer or employee as would deceive an ordinary
25 reasonable person into believing that it is authorized for use by a
26 state, county, city, special district, or city and county officer or
27 employee, is guilty of a misdemeanor punishable by imprisonment
28 in a county jail for a period not to exceed one year, a fine not to
29 exceed fifteen thousand dollars (\$15,000), or by both that
30 imprisonment and fine.

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

32 (1) Use of a badge in the fictitious or historical visual depiction
33 of either a public officer or employee.

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

37 SEC. 3. No reimbursement is required by this act pursuant to
38 Section 6 of Article XIII B of the California Constitution because
39 the only costs that may be incurred by a local agency or school
40 district will be incurred because this act creates a new crime or



1 infraction, eliminates a crime or infraction, or changes the penalty
2 for a crime or infraction, within the meaning of Section 17556 of
3 the Government Code, or changes the definition of a crime within
4 the meaning of Section 6 of Article XIII B of the California
5 Constitution.

6 SEC. 4. This act is an urgency statute necessary for the
7 immediate preservation of the public peace, health, or safety
8 within the meaning of Article IV of the Constitution and shall go
9 into immediate effect. The facts constituting the necessity are:

10 In order to enhance security and increase public safety, the
11 unauthorized use of badges and photographic identification cards,
12 and the illegal manufacture of badges and photographic
13 identification cards that falsely purport to be, or that resemble, the
14 authorized badge or photographic identification cards, of fire
15 department officers or members, and of all state, county, city,
16 special district, or city and county officers and employees must be
17 curtailed, thus, it is necessary that this act take effect immediately.

