

SUBJECT: Increasing the penalty for persons who claim fraudulent military records

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 5 ayes — S. King, Frank, Blanco, Farias, Shaheen

1 nay — Schaefer

1 present not voting — Aycock

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: Kyle Mitchell, Texas Veterans Commission)

BACKGROUND: Under Penal Code, sec. 32.54, a person commits the offense of fraudulent or fictitious military record if the person uses or claims to hold a military record that the person knows is fraudulent, fictitious, or has been revoked and the person uses that military record to promote a business or with the intent to:

- obtain priority in receiving services for state-funded job training or employment assistance programs or in Texas Veterans Commission programs that enhance training and employment opportunities for veterans;
- qualify for a veteran's employment preference;
- obtain a license or certificate to practice a trade, profession, or occupation;
- obtain a promotion, compensation, or other benefit, or an increase in compensation or other benefit;
- obtain a benefit, service, or donation from another person;
- obtain admission to an educational program in this state; or
- gain a position in state government with authority over another

person, regardless of whether the actor receives compensation for the position.

Fraudulent or fictitious military record is a class C misdemeanor (maximum fine of \$500).

DIGEST: HB 822 would increase the penalty for fraudulent or fictitious military record from a class C misdemeanor to a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000).

The bill would take effect September 1, 2015.

SUPPORTERS SAY: HB 822 is needed to discourage the reprehensible behavior of those who fraudulently represent themselves as veterans for financial gain. It would bring existing state penalties in line with the penalties under the federal Stolen Valor Act. The enhancement to an existing offense would allow state and local prosecutors to aggressively prosecute individuals who commit these crimes.

Although there may be some overlap between the punishments under the fraudulent or fictitious military record law and other laws, there are serious crimes that could be inadequately punished if the penalty remained a class C misdemeanor.

OPPONENTS SAY: HB 822 is unnecessary because the most egregious instances of fraudulent or fictitious military record would be actionable under various other state and federal laws. For the other cases, a class C misdemeanor probably is a sufficient punishment.

The bill's enhancement from a class C to a class A misdemeanor could lead to more incarcerations, which could come at a significant cost to counties that would be only partially offset by the increased fines.

NOTES: According to the Legislative Budget Board's fiscal note, the bill would have no significant fiscal implication to the state. The increase in revenue from higher fines would vary depending on the number of offenses but

could be offset by costs associated with increased jail time.

The companion bill, SB 835 by V. Taylor, was approved by the Senate on April 9.