



May 20, 2013

RE: H.R. 258, Stolen Valor Act (sponsored by Rep. Heck)

Dear Representative,

AMERICAN CIVIL
LIBERTIES UNION
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On behalf of the American Civil Liberties Union, please find attached our vote recommendation for today's anticipated vote on Rep. Heck's H.R. 258, the Stolen Valor Act. H.R. 258 is on the suspension calendar for today.

Please call Legislative Counsel Gabe Rottman with questions at (202) 675-2325.

LAURA W. MURPHY
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Regards,

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ACLU Vote Recommendation for Rep. Heck's Stolen Valor Act, H.R. 258

The Stolen Valor Act, as sponsored by Rep. Heck, would make it a federal criminal offense, punishable by a fine and not more than a year in prison, to “fraudulently” hold oneself out to be the recipient of certain military decorations and medals. The legislation attempts to address the constitutional deficiency in a previous version of the law, which was struck down on First Amendment grounds by the Supreme Court, by requiring that the misrepresentation be made “with intent to obtain money, property, or other tangible benefit.” There is no de minimis exception for “money, property or other tangible benefit.”

The American Civil Liberties Union recommends a NO vote on the Stolen Valor Act.

Vote NO because, while the current version is much improved over the past Stolen Valor Act, it does not define “fraudulently” to ensure that only literal fraud can be punished by the measure. Fraud is subject to less constitutional protection than other speech, but requires intent to defraud, a material misrepresentation, reasonable reliance and resulting harm. As written, H.R. 258 may not be limited to fraudulent speech. It is also unnecessary in that both state and federal law would already cover truly fraudulent misrepresentations about the receipt of a military decoration. We do, however, applaud the bill’s sponsors for attempting to narrow the law to ensure compliance with the First Amendment.

For more information, please contact Gabe Rottman, Legislative Counsel, at (202) 675-2325 or grottman@dcacclu.org.