

HOUSE BILL 927

By Hawk

AN ACT to enact the Tennessee Defense of Heroes Act of 2009 and to amend Tennessee Code Annotated, Title 39.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 39, Chapter 15, is amended by adding the following language as a new part:

Section 39-15-501. This part shall be known and may be cited as the "Tennessee Defense of Heroes Act of 2009".

Section 39-15-502. As used in this part, unless the context otherwise requires:

(1) "Active duty" means military duty in a military force or in the military department, under an order of the governor issued pursuant to parts 1, 2 and 4-6 of chapter 58 and while going to and returning from the same. Such duty may be either in a full-time or part-time status, depending upon the conditions under which it is performed;

(2) "Active military service of the United States" means full-time duty in the army, navy (including marine corps), air force or coast guard of the United States;

(3) "Armed forces" means the national guard and the reserve components of the armed forces, the United States army, the United States navy, the United States marine corps, the United States coast guard, and the United States air force, and any other branch of the military and naval forces or auxiliaries of the United States or this state;

(4)

(A) "Commercial purpose" means any use for economic gain.

"Commercial purpose" also means any use where money is exchange for a product or service regardless of whether such activity produces an economic gain;

(B) "Commercial purpose" does not mean any use by federal, state or local government; any use by bona fide news organizations; any use by bona fide veterans' organizations; or, any use for bona fide artistic, educational or religious purposes;

(5) "Representative" means a deceased soldier's legal representative, or, if there is no legal representative, the surviving spouse, or, if there is no surviving spouse, the parents of the deceased soldier, or, if there is no surviving parent, the children of the deceased soldier; and

(6) "Soldier" means a member of the armed forces.

Section 39-15-503.

(a) It is an offense for any person to knowingly use the name, portrait or picture of any soldier who is killed while on active duty, or active military service of the United States, for any commercial purpose without having first obtained consent to use such name, portrait or picture from such soldier's representative.

(b) A violation of this section is a Class A misdemeanor.

(c) All personal property, including, but not limited to, any items bearing a name, portrait or picture of such deceased soldier of any kind, employed or used in connection with a violation of this section shall be subject to judicial forfeiture pursuant to title 39, chapter 11, part 7. If the representative does not request release of seized items bearing such information, those items shall be destroyed unless the representative consents to another disposition.

SECTION 2. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to that end the provisions of this act are declared to be severable.

SECTION 3. This act shall take effect July 1, 2009, the public welfare requiring it.