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DATE: January 16, 2002

**HOUSE OF REPRESENTATIVES
AS REVISED BY THE COMMITTEE ON
CRIMINAL JUSTICE APPROPRIATIONS
ANALYSIS**

BILL #: HB 139
RELATING TO: Laser Lighting Devices
SPONSOR(S): Representative(s) McGriff and Others

TIED BILL(S):

ORIGINATING COMMITTEE(S)/COUNCIL(S)/COMMITTEE(S) OF REFERENCE:

- (1) CRIME PREVENTION, CORRECTIONS & SAFETY YEAS 10 NAYS 0
 - (2) CRIMINAL JUSTICE APPROPRIATIONS
 - (3) COUNCIL FOR HEALTHY COMMUNITIES
 - (4)
 - (5)
-

I. SUMMARY:

The bill makes it a second degree misdemeanor for any person who “knowingly and willfully shines, points, or focuses the beam of a laser lighting device at a law enforcement officer, engaged in the performance of his or her official duties, in such a manner that would cause a reasonable person to believe that a firearm is pointed at him or her.” A second degree misdemeanor is punishable by a term of imprisonment not to exceed 60 days and a fine not to exceed \$500.

This bill provides a definition for the term “laser lighting device.” It defines laser lighting device as a “hand-held device, not affixed to a firearm, which emits a laser beam that is designed to be used by the operator as a pointer or highlighter to indicate, mark, or identify a specific position, place, item, or object.”

This bill has an indeterminate fiscal impact on state or local government.

II. SUBSTANTIVE ANALYSIS:

A. DOES THE BILL SUPPORT THE FOLLOWING PRINCIPLES:

- | | | | |
|-----------------------------------|------------------------------|-----------------------------|---|
| 1. <u>Less Government</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 2. <u>Lower Taxes</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 3. <u>Individual Freedom</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 4. <u>Personal Responsibility</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |
| 5. <u>Family Empowerment</u> | Yes <input type="checkbox"/> | No <input type="checkbox"/> | N/A <input checked="" type="checkbox"/> |

For any principle that received a "no" above, please explain:

B. PRESENT SITUATION:

Laser Lighting Devices

Many laser lighting devices are produced and manufactured as toys, or as tools for individuals who engage in public speaking or make presentations. However, similar laser lighting devices are used as sighting mechanisms on some advanced weapons and firearms. The beam of a laser lighting device that is produced as a toy can be easily mistaken for a beam from a similar device that is used on a firearm. When the laser is pointed at a person, an individual with a firearm may mistake it for an act of aggression. This interpretation of a threat could provoke an armed response from a person who believes that his or her life is being threatened.

Newly developed laser lighting devices can effectively shine a beam up to 1500 – 6000 feet from its origin. Originally, laser lighting devices were produced as a tool for public speaking and were priced at about \$300 each. Technology has since increased the ability of these laser devices to shine a beam over longer distances and at the same time such devices can now be mass-produced at a cost of \$8. This has made these devices a toy of choice for pre-teen children.¹

Eye safety is a concern with regard to laser lighting devices. The beam of a laser lighting device can be very harmful to the retina of the eye. A direct hit in the eye with such a device can cause a variety of problems for the victim, ranging from temporary blindness to permanent retina damage, depending on the amount of time that the laser is pointed directly into the eye as well as the strength of the laser. The Food and Drug Administration issued a warning in late December 1997, advising that "the laser-light devices could cause permanent eye damage if the beam is directed into someone's eye for more than a few seconds."²

Accidents as a Result of Laser Lighting Devices

According to the Rockwell Laser Industries Accident Database, there have been several accidents connected with a laser lighting device.

¹ See Florida House of Representatives Committee on Law Enforcement and Crime Prevention Analysis, March 14, 2000.

² *Id.*

A bus driver in the United Kingdom was “dazzled while sitting at the wheel of the bus by a beam reflected from the rearview mirror. The beam came from a group of students.” The bus driver was treated at a hospital.³

A fireman, targeted by a “gang of youths,” was temporarily blinded when he was exposed to a laser as he parked his fire engine. He was treated at a hospital for temporary blindness.⁴

In Wisconsin, a high school cheerleader was exposed to a laser light on three occasions. The third time, she saw “green” and had vision loss. The cheerleader continued to report permanent vision loss after many months.⁵

Laser Lighting Device Laws in Other Jurisdictions

Twenty-one (21) states currently have laws pertaining to laser lighting devices. These states include Arizona, Arkansas, California, Connecticut, Hawaii, Illinois, Indiana, Louisiana, Maine, Maryland, New Hampshire, New Jersey, North Carolina, Oklahoma, Oregon, Rhode Island, Tennessee, Utah, Virginia, Washington, and Wisconsin.⁶ The state laws vary, but, in general, prohibit intentionally pointing or aiming a laser lighting device at a law enforcement officer, a public officer, or at any person. Some of the laws prohibit possession of a laser lighting device by a person less than eighteen years of age unless it is for educational purposes and under the direct supervision of a parent, legal guardian, teacher, employer, or other responsible adult. For the most part, violation of the state laws is considered a misdemeanor.⁷

In 1999, the City of Jacksonville adopted an ordinance making it “unlawful for any person to intentionally aim, focus, point or shine a beam, from any sort of laser pointing device directly or indirectly on another person or on an animal in such a manner as to frighten, harm, annoy, or injure said person or animal.”⁸

Criminal Penalties

Misdemeanors are classified, for the purpose of sentencing and other statutory purposes, in s. 775.081(2), F.S., into the following categories:

- Misdemeanor of the first degree; and
- Misdemeanor of the second degree.

Under s. 775.082(4)(b), F.S., a person who has been convicted of a misdemeanor of the second degree may be punished by a term of imprisonment not exceeding 60 days. Additionally, s. 775.083, F.S., provides that a person who has been convicted of an offense other than a capital

³ Rockwell Laser Industries Laser Accident Database, <http://www.rli.com/pointer.html>.

⁴ *Id.*

⁵ *Id.*

⁶ AZ ST s 13-1213; AR ST s 5-54-132; AR ST s 5-60-121; AR ST s 5-60-122; AR ST s 6-18-512; CA PENAL s 417.25; CA PENAL s 417.26; CA PENAL s 417.27; CT ST s 53-206(e); HI ST s 136-1; HI ST s 136-2; HI ST s 136-3; HI ST s 136-3; HI ST s 136-4; HI ST s 136-5; HI ST s 136-6; IL ST CH 720 s 5/2-10.2; IL ST CH 720 s 5/24.6-5; IL ST CH 720 s 24.6-20; IN ST s 35-47-4.5-1; IN ST s 35-47-4.5-2; IN ST s 35-47-4.5-4; LA R.S. 14:37:3; ME ST 17-A s 1002-A; MD CODE 1957, Art. 27, s 353; NH ST s 631:3-a; NJ ST 2C:12-1; NC ST s 14-34.8; 21 OK ST s 1992; OR ST s 163.709; RI GEN. LAWS s 16-21.2-11; RI GEN. LAWS s 23-1-39.1; TN ST s 39-16-515; UT CODE s 76-10-2501; VA CODE s 18.2-57.01; VA CODE s 22.1-279.6; WA ST s 9A.46.060; WA ST s 9A.49.001; WA ST s 9A.49.010; WA ST s 9A.49.020; WA ST s 9A.49.030; WA ST s 9A.49.040; WI ST s 941.299.

⁷ The different degrees of a misdemeanor vary from state to state.

⁸ Ordinance 1999-362, chapter 620.109(b), O.C.

felony may be sentenced to pay a fine. A fine of \$500 is authorized when the conviction is a misdemeanor of the second degree.⁹

C. EFFECT OF PROPOSED CHANGES:

The bill makes it a misdemeanor of the second degree for

[a]ny person who knowingly and willfully shines, points, or focuses the beam of a laser lighting device at a law enforcement officer, engaged in the performance of his or her official duties, in such a manner that would cause a reasonable person to believe that a firearm is pointed at him or her.

A misdemeanor of the second degree is punishable by a term of imprisonment not to exceed 60 days¹⁰ and a fine not to exceed \$500.¹¹

This bill provides a definition for the term "laser lighting device." It defines laser lighting device as a "hand-held device, not affixed to a firearm, which emits a laser beam that is designed to be used by the operator as a pointer or highlighter to indicate, mark, or identify a specific position, place, item, or object."

D. SECTION-BY-SECTION ANALYSIS:

See "Effect of Proposed Changes."

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

Indeterminate. (See fiscal comments.)

2. Expenditures:

Indeterminate. (See fiscal comments.)

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

Indeterminate. (See fiscal comments.)

2. Expenditures:

Indeterminate. (See fiscal comments.)

⁹ See s. 775.083(1)(e), F.S.

¹⁰ See s. 775.082(4)(b), F.S.

¹¹ See s. 775.083(1)(e), F.S.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

This bill, which creates a new, second degree misdemeanor offense, will not have a prison bed impact on the Department of Corrections. It would increase the criminal caseload in county court which affects both cost and workload. These costs may be offset, however, by the resulting revenue from additional fines. Since there is no way to determine how many of these offenses would be charged, the fiscal impact is indeterminate.

IV. CONSEQUENCES OF ARTICLE VII, SECTION 18 OF THE FLORIDA CONSTITUTION:

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill may require counties or municipalities to spend funds to enforce its provisions, however, an exemption to the mandate requirements exists for criminal laws.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that municipalities or counties have to raise revenues in the aggregate.

C. REDUCTION OF STATE TAX SHARED WITH COUNTIES AND MUNICIPALITIES:

This bill does not reduce the percentage of a state tax shared with counties or municipalities.

V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

The Florida Sheriff's Association supports this bill. The Florida Sheriff's Association thinks that the passage of this bill will allow officers to feel safer while performing their duties.¹²

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

¹² Florida House of Representatives Committee on State Administration, HB 1169 Analysis, April 19, 2001.

STORAGE NAME: h0139.cja.doc

DATE: January 16, 2002

PAGE: 6

VII. SIGNATURES:

COMMITTEE ON CREIME PREVENTION, CORRECTIONS & SAFETY:

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