

STORAGE NAME: h0591.cpcs.doc
DATE: December 28, 2001

**HOUSE OF REPRESENTATIVES
COMMITTEE ON
CRIME PREVENTION, CORRECTIONS & SAFETY
ANALYSIS**

BILL #: HB 591
RELATING TO: Public & Commercial Transportation
SPONSOR(S): Representative(s) Johnson

TIED BILL(S):

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

- (1) CRIME PREVENTION, CORRECTIONS & SAFETY
- (2) CRIMINAL JUSTICE APPROPRIATIONS
- (3) HEALTHY COMMUNITIES
- (4)
- (5)

I. SUMMARY:

HB 591 provides that it is a third degree felony for any person to endeavor to obtain, solicit to obtain or attempt to obtain any means of public or commercial transportation or conveyance with the intent to use the conveyance to commit any felony or to facilitate the commission of any felony.

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 checked="" type="checkbox"/> | No <input type="checkbox"/> | N/A <input 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:

Section 860.16 provides that "whoever without lawful authority seizes or exercises control, by force or violence and with wrongful intent, of any aircraft containing a nonconsenting person or persons within this state is guilty of the crime of aircraft piracy".¹ The offense is a first degree felony.

"Carjacking" is the taking of a motor vehicle from the custody of another with the intent to either permanently or temporarily deprive the person or the owner of the motor vehicle, when in the course of the taking there is the use of force, violence, assault or putting in fear. s. 812.133, F.S.

C. EFFECT OF PROPOSED CHANGES:

HB 591 provides that it is a third degree felony for any person to endeavor to obtain, solicit to obtain or attempt to obtain any means of public or commercial transportation or conveyance with the intent to use the conveyance to commit any felony or to facilitate the commission of any felony. In effect, it appears that the offense would require proof that the person took possession or control or attempted to take possession or control of public transportation with the intent to use the transportation to commit a felony or facilitate the commission of a felony. For example, if a person road the bus to a grocery store with the intention of robbing the store, it does not appear that this section would be violated because the person had not "obtained" or attempted to obtain the bus.

The bill includes "vessels", "aircraft" and "railroad trains" as well as "commercial vehicles"² within the definition of "public or commercial transportation or conveyance".

¹ Federal law also prohibits aircraft piracy and defines it as "seizing or exercising control of an aircraft in the special aircraft jurisdiction of the United States by force, violence, threat of force or violence, or any form of intimidation, and with wrongful intent." 49 USC § 46502

² Section 316.003(66), F.S. defines the term "commercial motor vehicle" as follows:

Any self propelled or towed vehicle used on the public highways in commerce to transport passengers or cargo, is such vehicle:

- a. Has a gross vehicle weight rating of 10,000 pounds or more;
- b. Is designed to transport more than 15 passengers including the driver; or
- c. Is used in the transportation of materials found to be hazardous for the purposes of the Hazardous Materials Transportation Act, as amended (49 U.S.C. ss1801 et seq.)

D. SECTION-BY-SECTION ANALYSIS:

This section need be completed only in the discretion of the Committee.

III. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT:

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

See fiscal comments.

2. Expenditures:

See fiscal comments.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See fiscal comments.

2. Expenditures:

See fiscal comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Criminal Justice Impact Conference has not met to consider the prison bed impact of this bill on the Department of Corrections. The bill creates a third degree felony offense which is not ranked in the Offense Severity Ranking Chart of the Criminal Punishment Code. In prior years, the conference has determined that bills which create unranked third degree felony offenses will have an insignificant prison bed impact on the department.

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

A. APPLICABILITY OF THE MANDATES PROVISION:

This bill is exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

B. REDUCTION OF REVENUE RAISING AUTHORITY:

This bill does not reduce the authority that counties or municipalities 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.

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V. COMMENTS:

A. CONSTITUTIONAL ISSUES:

None.

B. RULE-MAKING AUTHORITY:

None.

C. OTHER COMMENTS:

None.

VI. AMENDMENTS OR COMMITTEE SUBSTITUTE CHANGES:

N/A

VII. SIGNATURES:

COMMITTEE ON CRIME PREVENTION, CORRECTIONS & SAFETY:

Prepared by:

Staff Director:

Trina Kramer

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