

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1025

Misuse of Laser Lighting Devices

SPONSOR(S): Waters

TIED BILLS:

IDEN./SIM. BILLS: SB 830

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Domestic Security Committee		Garner	Newton
2) Criminal Justice Committee			
3) State Administration Council			
4) _____			
5) _____			

SUMMARY ANALYSIS

In the second half of 2004 and early this year, incidents have been reported in Newark, Cleveland, Houston, Washington, D.C., Colorado Springs, and Medford, Oregon involving persons who pointed a handheld laser at airplanes. The incident in Newark, New Jersey resulted in the charging of a man under the Patriot Act for the felony crime of interfering with the operator of a mass transportation vehicle. Helicopters and certain airplanes are not classified as mass transportation vehicles, so the crime does not apply if laser devices are aimed into the cockpit of these kinds of aircraft.

HB 1025 makes it a third-degree-felony for any person to knowingly and willfully shine, point, or focus the beam of a laser lighting device on an individual operating a motor vehicle, vessel, or airplane. A third-degree felony is punishable by up to five years in prison and a fine of up to \$5,000. If such act results in bodily injury, the act is punishable as a second-degree felony. A second-degree felony is punishable by up to 15 years in prison and a fine of up to \$10,000. The minimum sentence for this second-degree-felony is 21 months imprisonment.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. HOUSE PRINCIPLES ANALYSIS:

Maintain Public Security

The bill punishes acts that could be attempted by terrorists (the aiming of lasers at operators of airplanes and other vehicles that are not deemed "mass transportation vehicles"), but that are not currently illegal.

B. EFFECT OF PROPOSED CHANGES:

Current Situation

In the second half of 2004 and early this year, incidents have been reported in Newark, Cleveland, Houston, Washington, D.C., Colorado Springs, and Medford, Oregon involving persons who pointed a handheld laser at airplanes. The incident in Newark, New Jersey resulted in the charging of a man under the Patriot Act for the felony crime of interfering with the operator of a mass transportation vehicle.

Helicopters and certain airplanes are not classified as mass transportation vehicles, so the crime does not apply if laser devices are aimed into the cockpit of these kinds of aircraft.

In Florida, it is a non-criminal violation for any person to knowingly and willfully shine, point or focus 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. The term "laser lighting device" is defined 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. The violation is punishable by a fine of up to \$500.

The definition of "laser lighting device" provided in Florida law includes only hand-held pointer type devices, but does not include the small but higher powered applied-use lasers that are available to consumers at low cost. Such lasers would pose a greater danger than hand-held pointers if aimed at the cockpit of an aircraft.

Effect of Proposed Changes

HB 1025 makes it a third-degree-felony for any person to knowingly and willfully shine, point, or focus the beam of a laser lighting device on an individual operating a motor vehicle, vessel, or airplane. A third-degree felony is punishable by up to five years in prison and a fine of up to \$5,000. If such act results in bodily injury, the act is punishable as a second-degree felony. A second-degree felony is punishable by up to 15 years in prison and a fine of up to \$10,000. The minimum sentence for this second-degree-felony is 21 months imprisonment.

While the newly created crime applies to the act of pointing a laser at an airplane, it does not appear to apply in the case where a person points a laser at a helicopter.

C. SECTION DIRECTORY:

Section 1. Amends s. 784.062, F.S., to criminalize the pointing of a laser lighting device at a person operating a motor vehicle, vessel, or aircraft.

Section 2. Provides an effective date of July 1, 2005.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

No exercise of rulemaking authority is required to implement the provisions of this bill.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The definition existing in the statute was designed to proscribe the act of simulating the aiming of a laser sighted weapon at a law enforcement officer. Because it does not capture the broad selection of laser devices that could be used to distract the operator of a motor vehicle, vessel, or airplane, the existing definition seems inadequate to accomplish the apparent purpose of the bill. The sponsor is expected to file an amendment that addresses this concern.

In addition, the bill prohibits the pointing of a laser device at an airplane, but does not appear to prohibit the pointing of a laser device at a helicopter. The sponsor is expected to address this concern in an amendment.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES