

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 1025 CS
SPONSOR(S): Waters & others
TIED BILLS:

Misuse of Laser Lighting Devices
IDEN./SIM. BILLS: SB 830

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Domestic Security Committee</u>	<u>8 Y, 0 N, w/CS</u>	<u>Garner</u>	<u>Newton</u>
2) <u>Criminal Justice Committee</u>	<u>7 Y, 0 N</u>	<u>Kramer</u>	<u>Kramer</u>
3) <u>State Administration Council</u>	<u></u>	<u>Garner</u>	<u>Bussey</u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

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. Many helicopters and airplanes are not mass transportation vehicles as that term is applied under the Patriot Act, so the federal offense may not apply if a laser device is aimed into the cockpit of one of these kinds of aircraft.

HB 1025 w/CS 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 aircraft. 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 bill also revises the definition of the term "laser lighting device" as it applies to the new crime to include any laser, in addition to those used as pointing devices.

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 Act¹ for the felony crime of interfering with the operator of a mass transportation vehicle.

Helicopters and certain airplanes may not qualify as mass transportation vehicles, so the federal offense may not apply to the aiming of a laser device 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 or other vehicle.

Effect of Proposed Changes

HB 1025 w/CS 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 aircraft. For the purposes of the new crime, the term "laser lighting device" is defined as any device designed or used to amplify electromagnetic radiation by stimulated emission. This definition describes any kind of laser, both visible and non-visible.

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.

C. SECTION DIRECTORY:

¹ 18 U.S.C. 1993

Section 1. Amends s. 784.062, F.S., to revise the definition of the term "laser lighting device" and 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:

The Criminal Justice Impact Conference has not met to consider the prison bed impact of this bill on the Department of Corrections. This bill creates a third degree felony offense for pointing a laser light device at a motor vehicle, vessel or aircraft and creates a second degree felony offense when the act results in bodily injury. It is not expected that these offenses will be committed frequently. Therefore, the creation of these offenses should have an insignificant prison bed impact on the department.

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:

Although a law enforcement officer, in the course of his or her traffic enforcement duties, may point a laser device at a motor vehicle to measure its rate of speed, such act does not appear to be criminal under the provisions of the bill because the officer is intending to apply the laser to the vehicle, not its operator. The act is only criminal if the perpetrator *knowingly and willfully* shines, points, or focuses the beam *on an individual who is operating* a motor vehicle, vessel, or aircraft.

IV. AMENDMENTS/COMMITTEE SUBSTITUTE & COMBINED BILL CHANGES

On March 16, 2005, the Committee on Domestic Security adopted one strike-everything amendment and then reported the bill favorably as amended with a committee substitute. The amendment revised the language so that it is prohibited to point a laser at the operator of an *aircraft* rather than an *airplane*. This change addresses the fact that aircraft other than airplanes might be endangered by the proscribed acts. The amendment also revises the definition of the term "laser lighting device" only as it applies to the new crime so that all lasers are included in the definition and not merely the kind that are designed to be used as pointing devices.