

SUBJECT: Penalty for directing light from a laser pointer at a safety officer

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Hinojosa, Dunnam, Keel, Green, Kitchen, Martinez Fischer, Shields
0 nays
2 absent — Talton, Garcia

WITNESSES: For — *Registered but did not testify:* James D. Jones, San Antonio Police Officers' Association; Stephen Sanders, Texas State Lodge Fraternal Order of Police and Houston Police; Charley Wilkison, Combined Law Enforcement Associations of Texas

Against — None

On — *Registered but did not testify:* Ruth McBurney, Texas Department of Health

DIGEST: HB 319 would make it a class C misdemeanor, punishable by a maximum fine of \$500, to knowingly direct a light from a laser pointer at a uniformed safety officer, including a peace officer, security guard, fire fighter, emergency medical service worker, or other uniformed municipal, state, or federal officer. The bill would define laser pointers as devices that emitted a visible light amplified by the stimulated emission of radiation.

HB 319 would take effect September 1, 2001.

SUPPORTERS SAY: Pointing a laser pointer at a peace officer or other safety officer is a growing, dangerous activity that could lead to serious consequences. HB 319 would help deter this activity and make law enforcement officers' jobs safer.

Small, handheld laser pointers have become increasingly popular. They can be no bigger than a pen and emit a highly-focused light beam. Police officers have reported mistaking a laser being pointed at them with a laser from a

weapon. Lasers also have been pointed at safety officers in traffic and during special events such as concerts. This can impair their ability to do their jobs or lead to an unintended injury or death if police or others respond to a laser pointer as if it were a weapon, or if it impaired their vision.

HB 319 would be drawn narrowly to apply only to safety uniformed officers whose ability to do their jobs was important to society. The bill appropriately would make the offense a class C misdemeanor, punishable only by a fine. Although the Penal Code often uses broad offenses, in this situation that framework would be inadequate because the increasing use of the laser pointers may not fit the criteria for an offense.

HB 319 would aim to stop these incidents before they interfered with someone's public duties, not punish them afterwards, as current law would do. However, if an incident fit the criteria in current law, a person could be charged with interference of public duties. In addition, the current offense of interference with public duties is a class B misdemeanor, punishable by up to 180 days in jail and/or a maximum fine of \$2,000 — a punishment too harsh for some laser-shining incidents.

OPPONENTS
SAY:

It would be unnecessary and unwise to establish a specific offense for directing a laser pointer at peace officers, fire fighters, and others when this activity already can be covered by broad Penal Code language under the current offense of interference with public duties. Penal Code, sec. 38.15 makes it a class B misdemeanor to interrupt, disrupt, interfere with, or impede with criminal negligence a peace officer performing a duty or exercising authority, a person employed to provide emergency medical services, or a fire fighter who is fighting or investigating a fire. If pointing a laser at a peace officer or other public servant does not interfere with their duties, it should not be a criminal offense.

The Penal Code establishes broad offenses, and penalties should not be created for specific situations. Criminal procedures require that offenses be prosecuted under the most specific laws. HB 319 could result in laser-pointing incidents having to be prosecuted only as class C misdemeanors, when the more appropriate penalty might be a class B misdemeanor under current law.

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NOTES: During the 76th Legislature, the House passed an identical bill, HB 943 by Tillery, which was approved by the Senate Criminal Justice Committee but never considered by the Senate.