

SUBJECT: Criminal trespass on airplanes

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Hinojosa, Dunnam, Garcia, Keel, Nixon, Wise
0 nays
3 absent — Green, Smith, Talton

WITNESSES: For — Charles Sloan, DFW Airport Board; Michael McMullen, American Airlines
Against — None

BACKGROUND: Individuals commit the offense of criminal trespass when they enter or remain on property or in a building without the owner's consent and they had notice that entry was forbidden or were told to leave and failed to do so.

Criminal trespass is a class B misdemeanor, punishable by up to 180 days in jail and/or a maximum fine of \$2,000. If committed in a habitation or a shelter center, or while carrying a deadly weapon, it is a Class A misdemeanor, punishable by up to one year in jail and/or a maximum fine of \$4,000.

DIGEST: HB 2119 would expand the definition of criminal trespass to include entering or remaining on an aircraft of another without effective consent.

HB 2119 would take effect September 1, 1999.

SUPPORTERS SAY: HB 2119 would give airlines and law enforcement authorities a needed tool to deal with passengers who refuse to leave an airplane upon request. Once a plane is in flight, in general, federal laws and Federal Aviation Administration regulations allow charges to be filed against anyone who interferes with the flight crew. But when an individual refuses to comply with a flight attendant's order before the plane has left the ground, the airline may have no remedy. One flight at the Dallas-Fort Worth airport was canceled and the plane unloaded just to remove a man who refused to move to another seat.

If a passenger has not violated public intoxication laws, or committed assault or another criminal offense, law enforcement officers have no authority to remove the individual from the plane. As long as the passenger calmly refuses to obey the flight attendant, he or she cannot not be charged with disorderly conduct. The criminal trespass law may not be used because the Texas Court of Criminal Appeals held in *Williams v. State*, 605 S.W.2d 596 (Tex. Crim. App. 1980) that the statute applies only to real property, land, or buildings.

With HB 2119, airport law enforcement authorities could order a person to leave the plane at the request of the flight crew. A person who did not comply could then be arrested. As in all criminal trespass cases, a passenger could avoid criminal charges simply by leaving the plane.

A state law is needed so that airlines and passengers would be subject to uniform treatment. It would be cumbersome and difficult to deal with this issue through the local ordinance process because some airports are located in multiple jurisdictions.

OPPONENTS
SAY:

A state law may not be necessary to cover the few instances when passengers cause problems on airplanes without also committing offenses such as disorderly conduct, assault or violation of public intoxication law. Authority for law enforcement officials to remove passengers from airplanes could be granted through local ordinances.

NOTES:

The companion bill, SB 1558 by Nelson, passed the Senate on the Local and Uncontested Calendar on April 26 and was reported favorably, without amendment, by the House Criminal Jurisprudence Committee on April 29, making it eligible to be considered in lieu of HB 2119.