

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

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Hinojosa, Dunnam, Green, Keel, Nixon, Smith, Talton, Wise
0 nays
1 absent — Garcia

WITNESSES: For — Carvel “Corkey” McNeil Jr., Houston Police Patrolmen’s Union;
Chuck Brawner, Texas Municipal Police Association
Against — None
On — Ruth McBurney

DIGEST: HB 943 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 emit a visible light amplified by the stimulated emission of radiation.
HB 943 would take effect September 1, 1999.

SUPPORTERS SAY: Pointing a laser pointer at a peace officer or other safety officer is a growing, dangerous activity that could have serious consequences. HB 943 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 on them with a laser from a weapon. Lasers also have been pointed on 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 943 is drawn narrowly to apply only to safety uniformed officers whose ability to their jobs is important to society. The bill appropriately would make the offense a Class C misdemeanor, punishable only by a fine. Although the 1993 Penal Code instituted broad offenses, in this situation the framework is inadequate because the increasing use of the laser pointers may not fit the criteria for an offense.

HB 943 aims to stop these incidents before they interfere 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 can be covered by broad Penal Code language in 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 1993 Penal Code recodification was crafted carefully to establish broad coverage and to eliminate special provisions, and the balance of offenses and penalties should not be distorted for specific situations. Criminal procedures require that offenses be prosecuted under the most specific laws. HB 943 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.