

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

COMMITTEE: Law Enforcement — favorable, without amendment

VOTE: 5 ayes — Driver, Garza, Hupp, Hegar, Keel
1 nay — Y. Davis
1 absent — Burnam

WITNESSES: For — James Beck, Austin Police Association; Charley Wilkison, Combined Law Enforcement Association of Texas
Against — None

BACKGROUND: Penal Code, sec. 38.15 makes it a Class B misdemeanor (punishable by up to 180 days in jail and/or a maximum fine of \$2,000) 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 firefighter who is fighting or investigating a fire, among other officers performing public duties.

DIGEST: HB 831 would make it a Class C misdemeanor (punishable by a maximum fine of \$500) knowingly to direct a light from a laser pointer at a uniformed safety officer, including a peace officer, security guard, firefighter, emergency medical service worker, or other uniformed municipal, state, or federal officer. It would define laser pointer as a device that emits a visible light amplified by the stimulated emission of radiation.
The bill would take effect September 1, 2003.

SUPPORTERS SAY: HB 831 would help deter a dangerous activity that can lead to serious consequences. Pointing a laser pointer at a peace officer or other safety officer can cause the officer to pull his weapon in self-defense. In this period of heightened security consciousness, outlawing this activity makes good sense and could make law enforcement officers' jobs safer.

Small, handheld laser pointers have become increasingly popular. Originally they cost about \$400 and were used by educators and business people as presentation guides, but now they are available for less than \$8 at many stores. Laser pointers can be no bigger than a pen and emit a highly-focused light beam with a range of up to 1,600 feet. 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 the officers' ability to do their jobs and could lead to an unintended injury or death if police or others responded to a laser pointer as if it were a weapon, or if it impaired their vision.

HB 831 is drawn narrowly to apply only to uniformed safety officers whose ability to do their jobs is important to society. The bill appropriately would make the offense a Class C misdemeanor, punishable only by a fine. Although the Penal Code often establishes broad offenses, that framework would be inadequate for situations caused by the increasing use of laser pointers, which may not fit the criteria for an offense.

The intent of HB 831 is to stop such incidents before they interfere with an officer's public duties, rather than to punish the actor afterwards, as current law would require. If an incident fit the criteria in current law, a person could be charged with interfering with public duties, but the punishment for that offense is too harsh for some laser-shining incidents.

**OPPONENTS
SAY:**

HB 831 unnecessarily would establish a specific offense for directing a laser pointer at peace officers, firefighters, and others. The broad Penal Code language regarding interference with public duties already applies to this activity. 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 the Legislature should not create penalties for specific situations. HB 831 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.

NOTES:

In each of the past two sessions, the House passed bills identical to HB 831 that died in the Senate. During the 77th Legislature's 2001 regular session, the House passed HB 319 by Tillery, which died in the Senate Criminal Justice

Committee. During the 76th Legislature's 1999 regular session, the House passed HB 943 by Tillery and Wohlgemuth, which was reported favorably without amendment by the Senate Criminal Justice Committee but never was considered by the full Senate.