

HOUSE BILL REPORT

HB 2086

As Reported By House Committee On:

Criminal Justice & Corrections

Title: An act relating to the unlawful discharge of lasers.

Brief Description: Creating crimes of unlawful discharge of a laser.

Sponsors: Representatives Esser, Carrell, O'Brien, Constantine, Lovick, Schindler and Anderson.

Brief History:

Committee Activity:

Criminal Justice & Corrections: 2/26/99, 3/2/99 [DPS].

Brief Summary of Substitute Bill

- Creates the crimes of unlawful discharge of a laser in the first degree and unlawful discharge of a laser in the second degree when a person knowingly and maliciously discharges a laser at certain people under certain circumstances.
- Makes these crimes a civil infraction for juveniles who have never before committed either offense.
- Adds both unlawful discharge of a laser in the first degree and unlawful discharge of a laser in the second degree to crimes included in harassment.

HOUSE COMMITTEE ON CRIMINAL JUSTICE & CORRECTIONS

Majority Report: The substitute bill be substituted therefor and the substitute bill do pass. Signed by 8 members: Representatives Ballasiotes, Republican Co-Chair; O'Brien, Democratic Co-Chair; Cairnes, Republican Vice Chair; Lovick, Democratic Vice Chair; B. Chandler; Constantine; Kagi and Koster.

Staff: Dianne Ramerman (786-7172).

Background:

The state does not have a criminal statute specifically relating to the unlawful discharge of a laser at a person.

Definitions of Culpability: First, "knowledge" means a person knows or acts knowingly or with knowledge when he or she is aware of a fact, facts, or circumstances or results described by a statute defining an offense; or he or she has information which would lead a reasonable person in the same situation to believe facts exist which facts are described by the statute defining an offense.

Second, "maliciously" shall import an evil intent, wish, or design to vex, annoy, or injure another person. Malice may be inferred from an act done in wilful disregard of the rights of another, or an act wrongfully done without just cause or excuse, or an act or omission of duty betraying a wilful disregard of social duty.

Malicious Mischief. A person commits unlawful discharge of a laser under circumstances not amounting to either first, second, or third degree malicious mischief. A person commits malicious mischief in the first, second, or third degree if he or she knowingly and maliciously causes physical damage to the property of another.

Harassment. The court may restrict the defendant's ability to have contact with the victim.

Summary of Substitute Bill:

A new section is added to the criminal code, creating the crime of "unlawful discharge of a laser."

Unlawful discharge of a laser in the first degree. A person commits unlawful discharge of a laser in the first degree if he or she knowingly and maliciously discharges a laser:

- At a law enforcement officer or other employee of a law enforcement agency who is performing his official duties in uniform or exhibiting evidence of his or her authority, and in a manner that would support that officer's or employee's reasonable belief that he or she is targeted with a laser sighting device or system; or
- At a pilot, causing an impairment of the safety or operation of an aircraft, or causing an interruption or impairment of service by negatively affecting the pilot; or
- At a law enforcement officer or other employee of a law enforcement agency; a fire fighter or other employee of a fire department, county fire marshal's office, county fire prevention bureau, or fire protection district; a transit operator or driver of a public or private transit company; and a bus driver employed by a school district or private company, who is performing his official duties, causing an impairment of the

safety or operation of a vehicle, or causing an interruption or impairment of service by negatively affecting one of the persons just identified.

- *A class C felony, "unranked" seriousness level. Adults.* An adult offender convicted of unlawful discharge of a laser in the first degree is subject to a determinate sentence which may include: not more than one year of confinement, community service work, other legal financial obligations, a term of community supervision not to exceed one year, and/or a fine. However, the court may impose a sentence which provides more than one year of confinement if the court finds that there are substantial and compelling reasons justifying an exceptional sentence. By statute, the court can subject an adult offender convicted of a class C felony to a maximum five-year term of confinement, a fine of \$10,000, or both.
- *Juveniles.* A juvenile convicted of first degree unlawful discharge of a laser, who has not before committed unlawful discharge of a laser, commits a civil infraction and is subject to a monetary penalty not to exceed \$100; a juvenile with three or fewer prior offenses receives local sanctions of 0-30 days, and/or 0-12 months community supervision, and/or 0-150 hours community service, and/or a \$0-\$500 fine; and a juvenile with four or more prior offenses receives up to 15-36 weeks.

Unlawful discharge of a laser in the second degree. A person commits unlawful discharge of a laser in the second degree if he or she knowingly or maliciously discharges a laser:

- At a person not described under unlawful discharge of a laser in the first degree, who is operating a motor vehicle at the time, causing an impairment of the safety or operation of the motor vehicle by negatively affecting the driver; or
- At a person described under unlawful discharge of a laser in the first degree, causing a substantial risk of an impairment or interruption as described under unlawful discharge of a laser in the first degree; or
- At a person in order to intimidate or threaten that person.
 - *A gross misdemeanor. Adults.* An adult offender convicted of a gross misdemeanor is subject to a term of confinement of not more than one year or a fine of not more than \$5,000, or both, as determined by the court.
 - *Juveniles.* A juvenile convicted of second degree unlawful discharge of a laser, who has not before committed unlawful discharge of a laser, commits a civil infraction and is subject to a monetary penalty not to exceed \$100, otherwise a convicted juvenile receives local sanctions.

Harassment. The crimes of unlawful discharge of a laser in the first, second, and third degree are added to the list of crimes included in harassment.

Substitute Bill Compared to Original Bill: The substitute bill: (1) removes reference to "annoyed" and inserts "negatively affected;" (2) removes the crime of unlawful discharge of a laser in the third degree, including "at another person, directly or indirectly, in such a manner as to unreasonably cause serious annoyance to the person;" and (3) moves "at another person in order to intimidate or threaten that person" from unlawful discharge of a laser in the third degree to unlawful discharge of a laser in the second degree, making the action a gross misdemeanor rather than a misdemeanor.

Appropriation: None.

Fiscal Note: Available.

Effective Date of Substitute Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: (Substitute bill) The premise behind 2086 is that lasers are not inherently good or evil. Lasers have many beneficial uses such as laser surgery, laser light shows, and laser pointers in committee meetings. However, it is becoming clear that there are also harmful and dangerous uses. Until recently, dangerous use was rare because lasers were more expensive and less available. Lasers can be purchased for about \$25, and lasers are simple to use. Lasers have become very popular at many sporting events and in schools. Many school districts have banned lasers. This bill is not about banning lasers, but about criminalizing certain dangerous conduct. Lasers can be used to intimidate or harass and are especially dangerous when being used to cause a law enforcement officer to believe they are the target of a laser sighting device. Lasers can also interrupt or impair public services and can impair those driving motor vehicles. Over the last two months, 10 states have considered laws regulating lasers or criminalizing certain conduct.

Transit operators have had problems with lasers and "flash-blinding." The problems have mainly been with juveniles shining the lasers into the driver's eyes through the rear-view mirror. The intensity of looking into a laser light can be 10 times greater than looking at the sun. In 1997, the U.S. Federal Drug Administration (FDA) recommended against allowing juveniles to purchase or even use laser pointers. The FDA also requires warning labels on all laser lights sold. Kitsap County Schools have banned laser pointers on buses and at sporting events. I support the bill, and think that juveniles should not be punished as harshly as adults since "children will be children." Many cities and counties have limited the use of lasers and others are considering regulation.

We strongly support the bill and commend the sponsor for acknowledging there is a new technology which creates a problem for law enforcement officers. Lasers are a dangerous problem for law enforcement officers who see a red dot on their vehicle or on their person. Officers will take their vehicle off the road to avoid being shot and that is why we need different penalties for officers and others. An officer was killed in Chicago with laser sighting system. In Washington, there have been incidents in Kennewick, Lacey, and Clark County. A law officer in Tacoma was talking to his son who told him that the latest game in school was to target an officer and see how the officer reacts. The point is that officer's, 70 percent of whom are military, are trained to react, so there is a possibility of a shooting.

Testimony Against: (Substitute bill) The bill should not distinguish between different people or different modes of transportation, rather there should be one crime which treats people equally and fairly and applies no matter who the laser is discharged at.

Testified: (In support) Representative Esser, prime sponsor; Mark Powell, Amalgamated Transit Union; Laura Farris, Washington Council of Police and Sheriffs; and Mike Patrick, Washington Council of Police and Sheriffs.

(Opposed) Merton Cooper.