
Criminal Justice & Corrections Committee

HB 2505

Brief Description: Penalizing unlawful instruction in civil disorder.

Sponsors: Representatives O'Brien, Ballasiotes, Lantz, Haigh, Lovick, Ruderman, Schual-Berke, Crouse, Campbell, Delvin, Hurst, Lisk, Buck, Benson and Bush.

Brief Summary of Bill

- Prohibits the teaching or demonstrating of a device or technique capable of causing injury or death to persons if the device or technique is to be used in a civil disorder.
- Prohibits assembling with another for the purpose of being trained in the use of a device or technique capable of causing injury or death to persons if the device or technique is to be used in a civil disorder.

Hearing Date: 2/1/02

Staff: Jim Morishima (786-7191).

Background:

I. Liability for the Crimes of Another

A person may be held criminally liable for the actions of another if:

- The person acts with the same kind of culpability that is sufficient for the crime and causes an innocent or irresponsible person to engage in criminal conduct;
- The person is made accountable by statute; or
- The person is an accomplice of the person committing the crime. A person is an accomplice if, with knowledge that it will promote or facilitate the commission of the crime, he or she 1) solicits, commands, encourages, or requests the other person to commit the crime or 2) aids or agrees to aid the person in committing the crime.

A person will not be held to be liable for the criminal acts of another if he or she:

- Is the victim of the crime; or
- Terminates his or her involvement in the crime and gives timely notice to law

enforcement or makes a good faith effort to stop the crime.

II. Subversive Activities

A variety of laws exist with regard to subversive activities. For example, it is a felony to commit any act intended to overthrow the constitutional form of government of the United States or the state of Washington. It is also a felony to belong to a subversive organization. State agencies are required to adopt policies to ascertain whether their employees are subversive persons. All state employees must take an oath attesting to the fact that the employees are not members of the Communist party or other subversive organization. "Subversive person" is defined, in part, as a person who commits, advises, or teaches a person an act intended to overthrow the constitutional form of government of the United States or the state of Washington.

In Baggett v. Bullitt, 377 U.S. 360 (1964), United States Supreme Court struck down the oath requirement as violating the due process clause of the United States Constitution. The due process clause requires that citizens be given fair warning of illegal conduct. A statute is unconstitutionally vague if it 1) does not define the criminal offense with definiteness sufficient to inform people of what conduct is prohibited, or 2) does not provide ascertainable standards of guilt to protect against arbitrary enforcement. The Supreme Court ruled that the definition of "subversive person" was so uncertain and broad that it violates this principle.

III. Federal Law on Civil Disorders

Under federal law, a person is guilty of a felony if he or she:

"Teaches or demonstrates to any other person the use, application, or making of any firearm or explosive or incendiary device, or technique capable of causing injury or death to persons, knowing or having reason to know or intending that the same will be unlawfully employed for use in, or in furtherance of, a civil disorder which may in any way or degree obstruct, delay, or adversely affect commerce or the movement of any article or commodity in commerce or the conduct or performance of any federally protected function." 18 U.S.C. 231(1)(a).

"Civil disorder" is defined as "any public disturbance involving acts of violence by assemblages of three or more persons, which causes an immediate danger of or results in damage or injury to the property or person of any other individual."

Although the Supreme Court has not ruled on this law's constitutionality, several federal district courts and courts of appeal have upheld the statute. For example, the Seventh Circuit has ruled that the crime's intent element narrows the crime's scope and exempts innocent and inadvertent behavior. National Mobilization Committee to End War in Viet Nam v. Foran, 411 F.2d 934 (7th Cir., 1969).

Summary of Bill:

A new crime is added to the chapter in the Revised Code of Washington dealing with subversive activities. It is an unranked felony punishable by 10 years in prison, a fine not in

excess of \$50,000, or both (a class B felony) to:

- Teach or demonstrate to another person the use, application, or making of a device or technique capable of causing injury or death to people, knowing, having reason to know, or intending that the device or technique will be unlawfully used for use in, or in furtherance of, a civil disorder; or
- Assemble with one or more persons for the purpose of training with, practicing with, or being instructed in the use of a device or technique capable of causing injury or death to persons, intending to unlawfully employ the device or technique for use in, or in furtherance of, a civil disorder.

"Civil disorder" is defined as a "public disturbance involving acts of violence by assemblages of three or more persons, that causes an immediate danger of or results in damage or injury to the property or person of any other individual."

The provisions of the act do not apply to the actions of law enforcement officers in the lawful performance of their official duties.

Appropriation: None.

Fiscal Note: Requested on January 28, 2002.

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