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Part 1

SECURING AIRCRAFT COCKPITS AGAINST LASERS ACT OF 2011

FEBRUARY 11, 2011.—Committed to the Committee of the Whole House on the State of the Union and ordered to be printed

Mr. SMITH of Texas, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H.R. 386]

[Including cost estimate of the Congressional Budget Office]

The Committee on the Judiciary, to whom was referred the bill (H.R. 386) to amend title 18, United States Code, to provide penalties for aiming laser pointers at airplanes, and for other purposes, having considered the same, reports favorably thereon without amendment and recommends that the bill do pass.

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PURPOSE AND SUMMARY

H.R. 386, the "Securing Aircraft Cockpits Against Lasers Act of 2011," amends title 18 of the United States Code to provide for the imposition of criminal penalties for any individual who knowingly aims a laser pointer at an aircraft within the special aircraft juris-

diction of the United States, or its flight path, a practice that creates a serious threat to public safety and aviation security, especially during the critical stages of take-off and landing. The penalties include fines and imprisonment of up to 5 years.

BACKGROUND AND NEED FOR THE LEGISLATION

A laser, when aimed at an aircraft, can create a visual distraction or cause discomfort or even damage to a pilot's eyes. H.R. 386 addresses the high number of incidents involving lasers being pointed at aircraft while in flight. Many of these incidents are occurring during the take-off and landing portion of a flight, when the pilots need to be most alert. The Federal Aviation Administration has reported that pilots have had to relinquish control of their aircraft to their copilot. In the case of law enforcement aircraft, there are reports that responses to crime scenes by airborne police units were terminated due to laser interference. More than 2,800 laser incidents involving aircraft were reported in 2010.

Some perpetrators have been charged under 18 U.S.C. § 32, relating to the destruction of aircraft. However, this provision requires the government to prove willful interference and intent to endanger the pilots. While this burden may be easily established when a person attempts to detonate a bomb onboard an aircraft or attempts to overtake a member of the flight crew, it is difficult to establish this same type of intent for a laser incident, even if the effect is actually to endanger the pilots.

This bill recognizes the obvious and inherent danger of aiming a laser at an aircraft under any circumstance, as long as the offender knowingly aims the laser at the aircraft. The penalty under section 32, 20 years, coupled with having to prove specific intent to interfere with, disable, or endanger the pilots, seems to be a factor in multiple declinations of prosecution under the current statute.

The problem of lasers being shined into cockpits is so prevalent in some areas of the country that the Federal Bureau of Investigation, the Federal Aviation Administration, the Federal Air Marshal Service, as well as State and local law enforcement, have established a Laser Strike Working Group to address the problem.

On January 19, 2011, the Air Line Pilots Association International, representing 53,000 pilots flying for 38 airlines in the United States and Canada, sent a letter of support of this legislation. This letter stated in part: "The inappropriate use of widely available laser pointers against airborne flight crews represents a genuine and growing safety and security concern. At a minimum, the laser illumination of a cockpit creates a flight crew distraction and in more serious cases can result in eye damage and temporary incapacitation."

LEGISLATIVE HISTORY

In the 111th Congress, the House approved identical legislation (H.R. 5810) by voice vote on July 27, 2010. An identical bill was introduced in the 110th Congress (H.R. 1615). A subcommittee hearing was held on May 1, 2007, and the Judiciary Committee marked up the bill on May 2, 2007. The bill passed the House by a voice vote on May 22, 2007.

HEARINGS

The Committee on the Judiciary held no hearings on H.R. 386.

COMMITTEE CONSIDERATION

On January 26, 2011, the Committee met in open session and ordered the bill H.R. 386 favorably reported without amendment, by voice vote, a quorum being present.

COMMITTEE VOTES

In compliance with clause 3(b) of rule XIII of the Rules of the House of Representatives, the Committee advises that there were no recorded votes during the Committee's consideration of H.R. 386.

COMMITTEE OVERSIGHT FINDINGS

In compliance with clause 3(c)(1) of rule XIII of the Rules of the House of Representatives, the Committee advises that the findings and recommendations of the Committee, based on oversight activities under clause 2(b)(1) of rule X of the Rules of the House of Representatives, are incorporated in the descriptive portions of this report.

NEW BUDGET AUTHORITY AND TAX EXPENDITURES

Clause 3(c)(2) of rule XIII of the Rules of the House of Representatives is inapplicable because this legislation does not provide new budgetary authority or increased tax expenditures.

CONGRESSIONAL BUDGET OFFICE COST ESTIMATE

In compliance with clause 3(c)(3) of rule XIII of the Rules of the House of Representatives, the Committee sets forth, with respect to the bill, H.R. 386, the following estimate and comparison prepared by the Director of the Congressional Budget Office under section 402 of the Congressional Budget Act of 1974:

U.S. CONGRESS,
CONGRESSIONAL BUDGET OFFICE,
Washington, DC, February 2, 2011.

Hon. LAMAR SMITH, CHAIRMAN,
Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR MR. CHAIRMAN: The Congressional Budget Office has prepared the enclosed cost estimate for H.R. 386, the "Securing Aircraft Cockpits Against Lasers Act of 2011."

If you wish further details on this estimate, we will be pleased to provide them. The CBO staff contact is Mark Grabowicz, who can be reached at 226–2860.

Sincerely,

DOUGLAS W. ELMENDORF,
DIRECTOR.

Enclosure

cc: Honorable John Conyers, Jr.
Ranking Member

H.R. 386—Securing Aircraft Cockpits Against Lasers Act of 2011.

CBO estimates that implementing H.R. 386 would have no significant cost to the Federal Government. The legislation could affect direct spending and revenues, so pay-as-you-go procedures apply, but we estimate that any such effects would not be significant.

H.R. 386 would establish a new Federal crime for aiming the beam of a laser pointer at an aircraft or at the aircraft's flight path. Thus, the government might be able to pursue cases against violators that it otherwise would not be able to prosecute. However, CBO expects that H.R. 386 would apply to a relatively small number of offenders, so any increase in costs for law enforcement, court proceedings, or prison operations would not be significant. Any such costs would be subject to the availability of appropriated funds.

Because those prosecuted and convicted under H.R. 386 could be subject to criminal fines, the Federal Government might collect additional amounts if the legislation is enacted. Criminal fines are recorded as revenues, deposited in the Crime Victims Fund, and later spent. CBO estimates that any additional revenues and direct spending would not be significant because of the small number of cases likely to be affected.

H.R. 386 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would impose no costs on State, local, or tribal governments.

The CBO staff contact for this estimate is Mark Grabowicz. The estimate was approved by Theresa Gullo, Deputy Assistant Director for Budget Analysis.

PERFORMANCE GOALS AND OBJECTIVES

The Committee states that pursuant to clause 3(c)(4) of rule XIII of the Rules of the House of Representatives, H.R. 386 is intended to punish and deter the practice of knowingly aiming laser beams at aircraft.

CONSTITUTIONAL AUTHORITY STATEMENT

The Committee finds the authority for this legislation in article I, section 8, clause 3 of the Constitution.

ADVISORY ON EARMARKS

In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 386 does not contain any congressional earmarks, limited tax benefits, or limited tariff benefits as defined in clause 9(e), 9(f), or 9(g) of Rule XXI.

SECTION-BY-SECTION ANALYSIS

The following discussion describes the bill as reported by the Committee.

Sec. 1. Short title. Section 1 sets forth the short title of the bill as 'Securing Aircraft Cockpits Against Lasers Act of 2011.'

Sec. 2. Prohibition against Aiming A Laser Pointer At An Aircraft. Section 2 makes it a crime to knowingly aim the beam of a laser pointer at an aircraft in the special aircraft jurisdiction of the

United States or at the flight path of such aircraft. An individual convicted of this crime is subject to criminal fines or imprisonment up to 5 years. This provision does not apply to: (1) individuals conducting research and development or flight test operations for an aircraft manufacturer or the Federal Aviation Administration; (2) Department of Defense or Department of Homeland Security personnel conducting research, development, operations, testing or training; or (3) an individual using a laser emergency signaling device to send a distress signal.

Section 2 authorizes the Attorney General, in consultation with the Secretary of Transportation, to provide by regulation, after public notice and comment, additional exceptions to this provision as necessary and appropriate. The Attorney General must give written notice of any such proposed regulations to the House and Senate Committees on the Judiciary as well as other specified committees.

Sec.3. Compliance with PAYGO. Sets the determination of the budgetary effects of the Act for compliance with the Statutory Pay-As-You-Go Act of 2010.

CHANGES IN EXISTING LAW MADE BY THE BILL, AS REPORTED

In compliance with clause 3(e) of rule XIII of the Rules of the House of Representatives, changes in existing law made by the bill, as reported, are shown as follows (new matter is printed in italics and existing law in which no change is proposed is shown in roman):

TITLE 18, UNITED STATES CODE

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PART I—CRIMES

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CHAPTER 2—AIRCRAFT AND MOTOR VEHICLES

Sec.
31. Definitions.

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39A. Aiming a laser pointer at an aircraft.

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§ 39A. Aiming a laser pointer at an aircraft

(a) Whoever knowingly aims the beam of a laser pointer at an aircraft in the special aircraft jurisdiction of the United States, or at the flight path of such an aircraft, shall be fined under this title or imprisoned not more than 5 years, or both.

(b) As used in this section, the term "laser pointer" means any device designed or used to amplify electromagnetic radiation by stimulated emission that emits a beam designed to be used by the operator as a pointer or highlighter to indicate, mark, or identify a specific position, place, item, or object.

(c) This section does not prohibit aiming a beam of a laser pointer at an aircraft, or the flight path of such an aircraft, by—

(1) an authorized individual in the conduct of research and development or flight test operations conducted by an aircraft manufacturer, the Federal Aviation Administration, or any other person authorized by the Federal Aviation Administration to conduct such research and development or flight test operations;

(2) members or elements of the Department of Defense or Department of Homeland Security acting in an official capacity for the purpose of research, development, operations, testing or training; or

(3) by an individual using a laser emergency signaling device to send an emergency distress signal.

(d) The Attorney General, in consultation with the Secretary of Transportation, may provide by regulation, after public notice and comment, such additional exceptions to this section, as may be necessary and appropriate. The Attorney General shall provide written notification of any proposed regulations under this section to the Committees on the Judiciary of the House and Senate, the Committee on Transportation and Infrastructure in the House, and the Committee on Commerce, Science and Transportation in the Senate not less than 90 days before such regulations become final.

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