



**Sub. H.B. 231\***

126th General Assembly

(As Reported by S. Judiciary on Criminal Justice)

**Reps. Mason, McGregor, Otterman, Allen, Brown, Chandler, Williams, Carano, S. Smith, Boccieri, Fende, Driehaus, Ujvagi, Harwood, Oelslager, C. Evans, Key, S. Patton, DeBose, Collier, Reidelbach, Yuko, Beatty, Barrett, Blessing, Book, Buehrer, Cassell, Coley, DeGeeter, Domenick, Flowers, Garrison, Gibbs, Gilb, Hartnett, Hoops, Hughes, Latta, Law, Mitchell, T. Patton, Perry, Peterson, Raussen, Sayre, Schaffer, Schneider, Seaver, Skindell, G. Smith, D. Stewart, J. Stewart, Sykes, Walcher, Willamowski, Woodard, Yates**

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**BILL SUMMARY**

- Prohibits a person from knowingly discharging a laser or other device that creates visible light into the cockpit of an aircraft that is in the process of taking off or landing or is in flight.
- Establishes that violation of the bill's prohibition is the offense of "interfering with the operation of an aircraft with a laser," a felony of the second degree.
- Adds a violation of the bill's prohibition to the list of "specified offenses" that constitute for purposes of the state's Anti-terrorism Law an "act of terrorism" when committed under circumstances defined under existing law.
- Defines "laser."
- Expands the definition of "United States Department of State Terrorist Exclusion List" that applies to the state's Anti-terrorism Law so that it also includes the list of terrorist organizations the Director of Public Safety prepares by rule that is comprised of lists of organizations officials

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*\* This analysis was prepared before the report of the Senate Judiciary on Criminal Justice Committee appeared in the Senate Journal. Note that the list of co-sponsors and the legislative history may be incomplete.*

of the U.S. government designate as terrorist, including the U.S. Secretary of State's terrorist exclusion list for immigration purposes currently included in the definition, the list of Foreign Terrorist Organizations the U.S. Secretary of State prepares in consultation with the U.S. Attorney General and the U.S. Secretary of the Treasury, and the list of charities that support terrorist activities that the U.S. Department of the Treasury compiles, which is known as Designated Charities.

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## CONTENT AND OPERATION

### *Interfering with the operation of an aircraft with a laser*

#### *Prohibition and penalty*

The bill defines "laser" (definition below) and prohibits any person from knowingly discharging a laser or other device that creates visible light into the cockpit of an aircraft that is in the process of taking off or landing or is in flight. Violation of the bill's prohibition is the offense of "interfering with the operation of an aircraft with a laser," a felony of the second degree. (R.C. 2909.081(A) and (B).)

#### *Inclusion as "specified offense" for purposes of anti-terrorism laws*

*Existing law.* Existing law contains a series of anti-terrorism offenses and related provisions, none of which are in the bill. The offenses include: (1) "soliciting or providing support for an act of terrorism" (R.C. 2909.22), which prohibits a person from raising, soliciting, collecting, or providing, etc., material support or resources with the purpose that the support or resources will be used in a specified manner related to an *act of terrorism* (see below), (2) "making a terroristic threat" (R.C. 2909.23), which prohibits a person from threatening to commit or threatening to cause to be committed a *specified offense* (see below) when the threat is made with a specified terroristic purpose and when it results in a reasonable expectation or fear of the imminent commission of the offense, and (3) "terrorism" (R.C. 2909.24), which prohibits a person from committing a *specified offense* (see below) with a specified terroristic purpose. The related provisions include R.C. 2921.32, which provides increased penalties for the offense of "obstructing justice" when the crime or act committed by the person aided by the offender is an *act of terrorism* (see below), and R.C. 2909.25, which authorizes a court to order reimbursement of the costs of investigation and prosecution to be paid by a person convicted of a violation of R.C. 2909.22, 2909.23, 2909.24, or of R.C. 2921.32 when the crime or act committed by the person aided by the offender is an *act of terrorism* (see below), and to order reimbursements of government

response costs to be paid by a person convicted of a violation of R.C. 2909.23 or 2909.24.

Existing law defines a "specified offense" for purposes of the Anti-terrorism Law as any felony offense of violence, the offense of "disrupting public services," "contaminating a substance for human consumption or use or contamination with a hazardous chemical, biological, or radioactive substance," or "spreading a false report of contamination," or a felony of the first degree that is not a violation of any provision in R.C. Chapter 2925. or 3719. (R.C. 2909.21(E).)

Under existing law, for purposes of the Anti-terrorism Law, "act of terrorism" means an act that is committed within or outside the territorial jurisdiction of this state or the United States, that constitutes a *specified offense* if committed in this state or constitutes an offense in any jurisdiction within or outside the territorial jurisdiction of the United States containing all of the essential elements of a specified offense, and that is intended to do one or more of the following: (1) intimidate or coerce a civilian population, (2) influence the policy of any government by intimidation or coercion, or (3) affect the conduct of any government by the act that constitutes the offense. (R.C. 2909.21(A).)

**Operation of the bill.** The bill adds the offense of "interfering with the operation of an aircraft with a laser" to the list of offenses that currently are designated as "specified offenses" for purposes of the state's Anti-terrorism Law. It does not otherwise change any of those laws. As a result of this change:

(1) The existing offenses of "making a terroristic threat" and "terrorism" apply regarding "interfering with the operation of an aircraft with a laser," and, thus, respectively prohibit a person from: (a) threatening to commit or threatening to cause to be committed "interfering with the operation of an aircraft with a laser" when the threat is made with a specified terroristic purpose and when it results in a reasonable expectation or fear of the imminent commission of the offense, and (b) committing "interfering with the operation of an aircraft with a laser" with a specified terroristic purpose. (R.C. 2909.23 and 2909.24, not in the bill.)

(2) "Interfering with the operation of an aircraft with a laser" is an act of terrorism if it is committed in the circumstances described above in "**Existing law**" under the definition of "act of terrorism." If the offense is an act of terrorism: (a) the existing offense of "soliciting or providing support for an act of terrorism" applies, and, thus, prohibits a person from raising, soliciting, collecting, or providing, etc., material support or resources with the purpose that it will be used in a specified manner related to "interfering with the operation of an aircraft with a laser" as an act of terrorism, and (b) existing law's increased penalties for the offense of "obstructing justice" apply when the crime or act committed by the



person aided by the offender is "interfering with the operation of an aircraft with a laser" as an *act of terrorism*. (R.C. 2909.22 and R.C. 2921.32, not in the bill.)

(3) The existing provisions regarding court-ordered reimbursement of the costs of investigation and prosecution, and of government response costs, apply regarding persons convicted of a violation of R.C. 2909.22, 2909.23, 2909.24, or 2921.32, when the conviction is based on or related to "interfering with the operation of an aircraft with a laser" (R.C. 2909.25, not in the bill).

### **Laser defined**

Under the bill, "laser" means both of the following:

(1) Any device that utilizes the natural oscillations of atoms or molecules between energy levels for generating coherent electromagnetic radiation in the ultraviolet, visible, or infrared region of the spectrum and when discharged exceeds one milliwatt continuous wave;

(2) Any device designed or used to amplify electromagnetic radiation by simulated emission that is visible to the human eye. (R.C. 2909.081(C).)

### **Restrictions against state licensing, state or political subdivision doing business or providing funding, and public employment--persons or companies that provide material assistance to terrorist organization**

#### **Restrictions in general**

Existing law, enacted in Am. Sub. 9 of the 126th General Assembly, effective April 14, 2006, and unchanged by the bill except for the definitional change described below, requires the Director of Public Safety to prepare a document to serve as a Declaration of Material Assistance/Nonassistance for specified government entities to use to identify whether specified persons or entities desiring to engage in any of three types of relationships with the government entity has provided "material assistance" to an organization listed in the "United States Department of State Terrorist Exclusion List" (hereafter, the U.S. Terrorist Exclusion List) (see "**Material assistance, material support or resources, and Terrorist Exclusion List definitions**," below). Existing law then imposes restrictions upon three types of relationships with governmental entities that apply when a person or entity has provided material assistance to an organization listed in the U.S. Terrorist Exclusion List. Generally, regarding these three types of relationships, existing law provides as follows:

(1) **State license issuance restriction**. Any agency that issues a license the Director of Public Safety identifies as being a license the state issues for which a holder with a connection to a terrorist organization would present a potential risk

to Ohio's residents (renewable driver's licenses or permits cannot be so identified if applicant is an Ohio resident) must include with the agency's application form a copy of the Declaration and a then-current copy of the U.S Terrorist Exclusion List. The agency must inform applicants that they must truthfully answer each question. Any person provided a Declaration must answer each question and attach the completed Declaration to the application. Any answer of "yes" to any question, or the failure to answer "no" to any question, on the Declaration serves as a disclosure that the applicant has provided "material assistance" to an organization listed on the U.S Terrorist Exclusion List. Any person who discloses the provision of material assistance to any organization on the List must be denied the license or the renewal of the license unless the Department of Public Safety reinstates the application. Existing law provides for an appeal, and a procedure for revocation of a previously issued license.

(2) **Restriction against the state or a political subdivision doing business or providing funding.** Prior to entering into a contract to conduct business or receive funding, any person, company, affiliated group, or organization, and any person who holds, owns, or otherwise has a controlling interest in any such entity that conducts any business with or receives funding in an aggregate amount greater than \$100,000 annually from the state, any state instrumentality, and any Ohio political subdivision, excluding the amount of any "personal benefit," must certify, by completing the Declaration, that it does not provide material assistance to any organization on the U.S. Terrorist Exclusion List. Any person provided a Declaration must complete it. Any answer of "yes" to any question, or the failure to answer "no" to any question, on the Declaration serves as a disclosure of the provision of material assistance to an organization listed on the U.S. Terrorist Exclusion List. The state, a state instrumentality, or an Ohio political subdivision is prohibited from conducting business with or providing any funding to any person, company, affiliated group or organization, or any person who has a controlling interest in any such entity unless that person, company, affiliated group, or organization is certified under an alternative "precertification" procedure. The state, instrumentality, or subdivision must provide the Declaration, along with a then-current copy of the U.S. Terrorist Exclusion List, to any person, company, affiliated group, or organization that is not precertified and for which certification is required. A person, company, affiliated group or organization, or a person who holds, owns, or otherwise has a controlling interest in any such entity is prohibited from entering into a contract to conduct business with or receive funding from the state, a state instrumentality, or an Ohio political subdivision unless it is so certified.

(3) **Public employment restriction.** The state, a state instrumentality, or an Ohio political subdivision must provide each person under final consideration for a category of employment not exempt from this provision with a copy of the

Declaration and a then-current copy of the U.S. Terrorist Exclusion List. Any person under final consideration for employment who is provided a Declaration must complete it prior to being employed. Any answer of "yes" to any question, or the failure to answer "no" to any question, serves as a disclosure of the provision of material assistance to an organization listed on the U.S. Terrorist Exclusion List. The state, instrumentality, or subdivision is prohibited from employing any person who discloses the provision of material assistance to an organization that is listed on the List. The Director of Public Safety may adopt rules that establish categories of employment that are exempt from the disclosure requirements of this provision.

**Material assistance, material support or resources, and Terrorist Exclusion List definitions**

**Existing law.** R.C. 2909.21 defines a series of terms for use in the Anti-terrorism Law, including R.C. 2909.32, 2909.33, and 2909.34. Among the terms defined are "**United States Department of State Terrorist Exclusion List**" and "**Terrorist Exclusion List**," which mean the list compiled by the U.S. Secretary of State, in consultation with or upon the request of the U.S. Attorney General, that designates terrorist organizations for immigration purposes, as authorized by the "Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism (USA Patriot Act) Act of 2001," Pub. L. No. 107-056, 115 Stat. 272, as amended (R.C. 2909.21(P)).

**Operation of the bill.** The bill expands the definition of United States Department of State Terrorist Exclusion List and Terrorist Exclusion List to include lists prepared by specified officials of state government or the federal government that currently are not included within the definition. Under the bill, they mean the list compiled by the U.S. Secretary of State, in consultation with or upon the request of the U.S. Attorney General, that designates terrorist organizations for immigration purposes, and also mean (added by the bill) the list of terrorist organizations the Director of Public Safety prepares by rule that is comprised of lists of organizations officials of the U.S. government designate as terrorist, including the U.S. Secretary of State's terrorist exclusion list for immigration purposes currently included in the definition, the list of Foreign Terrorist Organizations the U.S. Secretary of State prepares in consultation with the U.S. Attorney General and the U.S. Secretary of the Treasury, and the list of charities that support terrorist activities that the U.S. Department of the Treasury compiles, which is known as Designated Charities. (R.C. 2909.21(P).)

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## HISTORY

ACTION	DATE
Introduced	05-03-05
Reported, H. Transportation, Public Safety, & Homeland Security	11-15-05
Passed House (94-0)	12-13-05
Reported, S. Judiciary on Criminal Justice	---

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