FEDERAL COURTS JURISDICTION AND VENUE CLARIFICATION ACT OF 2011

Mr. SMITH of Texas. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 394) to amend title 28, United States Code, to clarify the jurisdiction of the Federal courts, and for other purposes, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 394

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the ''Federal Courts Jurisdiction and Venue Clarification Act of 2011''.

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—JURISDICTIONAL IMPROVEMENTS

Sec. 101. Treatment of resident aliens.
Sec. 102. Citizenship of corporations and insurance companies with foreign contacts.
Sec. 103. Removal and remand procedures.
Sec. 104. Effective date.

TITLE II—VENUE AND TRANSFER IMPROVEMENTS

Sec. 201. Scope and definitions.
Sec. 202. Venue generally.
Sec. 203. Repeal of section 1392.
Sec. 204. Change of venue.
Sec. 205. Effective date.

TITLE I—JURISDICTIONAL IMPROVEMENTS

SEC. 101. TREATMENT OF RESIDENT ALIENS.

Section 1332(a) of title 28, United States Code, is amended—

(1) by striking the last sentence; and

(2) in paragraph (2), by inserting after ''foreign state'' the following: '', except that the district courts shall not have original jurisdiction under this subsection of an action between citizens of a State and citizens or subjects of a foreign state who are lawfully admitted for permanent residence in the United States and are domiciled in the same State''.

SEC. 102. CITIZENSHIP OF CORPORATIONS AND INSURANCE COMPANIES WITH FOREIGN CONTACTS.

Section 1332(c)(1) of title 28, United States Code, is amended—

(1) by striking ''any State'' and inserting ''every State and foreign state'';

(2) by striking ''the State'' and inserting ''the State or foreign state''; and

(3) by striking all that follows ''party-defendant,'' and inserting ''such insurer shall be deemed a citizen of—

''(A) every State and foreign state of which the insured is a citizen;

''(B) every State and foreign state by which the insurer has been incorporated; and

''(C) the State or foreign state where the insurer has its principal place of business; and''.

SEC. 103. REMOVAL AND REMAND PROCEDURES.

(a) ACTIONS REMOVABLE GENERALLY.—Section 1441 of title 28, United States Code, is amended as follows:

(1) The section heading is amended by striking ''**Actions removable generally**'' and inserting ''**Removal of civil actions**''.

(2) Subsection (a) is amended—

(A) by striking ''(a) Except'' and inserting ''(a) GENERALLY.—Except''; and

(B) by striking the last sentence;

(3) Subsection (b) is amended to read as follows:

''(b) REMOVAL BASED ON DIVERSITY OF CITIZENSHIP.—(1) In determining whether a civil action is removable on the basis of the jurisdiction under section 1332(a) of this title, the citizenship of defendants sued under fictitious names shall be disregarded.

''(2) A civil action otherwise removable solely on the basis of the jurisdiction under section 1332(a) of this title may not be removed if any of the parties in interest properly joined and served as defendants is a citizen of the State in which such action is brought.''.

(4) Subsection (c) is amended to read as follows:

''(c) JOINDER OF FEDERAL LAW CLAIMS AND STATE LAW CLAIMS.—(1) If a civil action includes—

''(A) a claim arising under the Constitution, laws, or treaties of the United States (within the meaning of section 1331 of this title), and

''(B) a claim not within the original or supplemental jurisdiction of the district court or a claim that has been made nonremovable by statute,

the entire action may be removed if the action would be removable without the inclusion of the claim described in subparagraph (B).

''(2) Upon removal of an action described in paragraph (1), the district court shall sever from the action all claims described in paragraph (1)(B) and shall remand the severed claims to the State court from which the action was removed. Only defendants against whom a claim described in paragraph (1)(A) has been asserted are required to join in or consent to the removal under paragraph (1).''.

(5) Subsection (d) is amended by striking ''(d) Any'' and inserting ''(d) ACTIONS AGAINST FOREIGN STATES.—Any''.

(6) Subsection (e) is amended by striking ''(e)(1) Notwithstanding'' and inserting ''(e) MULTIPARTY, MULTIFORUM JURISDICTION.—(1) Notwithstanding''.

(7) Subsection (f) is amended by striking ''(f) The court'' and inserting ''(f) DERIVATIVE REMOVAL JURISDICTION.—The court''.

(b) PROCEDURE FOR REMOVAL OF CIVIL ACTIONS.—Section 1446 of title 28, United States Code, is amended as follows:

(1) The section heading is amended to read as follows:

''§ 1446. Procedure for removal of civil actions''.

(2) Subsection (a) is amended—

(A) by striking ''(a) A defendant'' and inserting ''(a) GENERALLY.—A defendant''; and

(B) by striking ''or criminal prosecution''.

(3) Subsection (b) is amended—

(A) by striking ''(b) The notice'' and inserting ''(b) REQUIREMENTS; GENERALLY.—(1) The notice''; and

(B) by striking the second paragraph and inserting the following:

''(2)(A) When a civil action is removed solely under section 1441(a), all defendants who have been properly joined and served must join in or consent to the removal of the action.

''(B) Each defendant shall have 30 days after receipt by or service on that defendant of the initial pleading or summons described in paragraph (1) to file the notice of removal.

''(C) If defendants are served at different times, and a later-served defendant files a notice of removal, any earlier-served defendant may consent to the removal even though that earlier-served defendant did not previously initiate or consent to removal.

''(3) Except as provided in subsection (c), if the case stated by the initial pleading is not removable, a notice of removal may be filed within thirty days after receipt by the defendant, through service or otherwise, of a copy of an amended pleading, motion, order or other paper from which it may first be ascertained that the case is one which is or has become removable.'';

(C) by striking subsection (c) and inserting the following:

''(c) REQUIREMENTS; REMOVAL BASED ON DIVERSITY OF CITIZENSHIP.—(1) A case may not be removed under subsection (b)(3) on the basis of jurisdiction conferred by section 1332 more than 1 year after commencement of the action, unless the district court finds that the plaintiff has acted in bad faith in order to prevent a defendant from removing the action.

''(2) If removal of a civil action is sought on the basis of the jurisdiction conferred by section 1332(a), the sum demanded in good faith in the initial pleading shall be deemed to be the amount in controversy, except that—

''(A) the notice of removal may assert the amount in controversy if the initial pleading seeks—

''(i) nonmonetary relief; or

''(ii) a money judgment, but the State practice either does not permit demand for a specific sum or permits recovery of damages in excess of the amount demanded; and

''(B) removal of the action is proper on the basis of an amount in controversy asserted under subparagraph (A) if the district court finds, by the preponderance of the evidence, that the amount in controversy exceeds the amount specified in section 1332(a).

''(3)(A) If the case stated by the initial pleading is not removable solely because the amount in controversy does not exceed the amount specified in section 1332(a), information relating to the amount in controversy in the record of the State proceeding, or in responses to discovery, shall be treated as an 'other paper' under subsection (b)(3).

''(B) If the notice of removal is filed more than 1 year after commencement of the action and the district court finds that the plaintiff deliberately failed to disclose the actual amount in controversy to prevent removal, that finding shall be deemed bad faith under paragraph (1).''.

(4) Section 1446 is further amended—

(A) in subsection (d), by striking ''(d) Promptly'' and inserting ''(d) NOTICE TO ADVERSE PARTIES AND STATE COURT.—Promptly'';

(B) by striking ''thirty days'' each place it appears and inserting ''30 days'';

(C) by striking subsection (e); and

(D) in subsection (f), by striking ''(f) With respect'' and inserting ''(e) COUNTERCLAIM IN 337 PROCEEDING.—With respect''.

(c) PROCEDURE FOR REMOVAL OF CRIMINAL ACTIONS.—Chapter 89 of title 28, United States Code, is amended by adding at the end the following new section:

''§ 1454. Procedure for removal of criminal prosecutions

''(a) NOTICE OF REMOVAL.—A defendant or defendants desiring to remove any criminal prosecution from a State court shall file in the district court of the United States for the district and division within which such prosecution is pending a notice of removal signed pursuant to Rule 11 of the Federal Rules of Civil Procedure and containing a short and plain statement of the grounds for removal, together with a copy of all process, pleadings, and orders served upon such defendant or defendants in such action.

''(b) REQUIREMENTS.—(1) A notice of removal of a criminal prosecution shall be filed not later than 30 days after the arraignment in the State court, or at any time before trial, whichever is earlier, except that for good cause shown the United States district court may enter an order granting the defendant or defendants leave to file the notice at a later time.

''(2) A notice of removal of a criminal prosecution shall include all grounds for such removal. A failure to state grounds that exist at the time of the filing of the notice shall constitute a waiver of such grounds, and a second notice may be filed only on grounds not existing at the time of the original notice. For good cause shown, the United States district court may grant relief from the limitations of this paragraph.

''(3) The filing of a notice of removal of a criminal prosecution shall not prevent the State court in which such prosecution is pending from proceeding further, except that a judgment of conviction shall not be entered unless the prosecution is first remanded.

''(4) The United States district court in which such notice is filed shall examine the notice promptly. If it clearly appears on the face of the notice and any exhibits annexed thereto that removal should not be permitted, the court shall make an order for summary remand.

''(5) If the United States district court does not order the summary remand of such prosecution, it shall order an evidentiary hearing to be held promptly and, after such hearing, shall make such disposition of the prosecution as justice shall require. If the United States district court determines that removal shall be permitted, it shall so notify the State court in which prosecution is pending, which shall proceed no further.

''(c) WRIT OF HABEAS CORPUS.—If the defendant or defendants are in actual custody on process issued by the State court, the district court shall issue its writ of habeas corpus, and the marshal shall thereupon take such defendant or defendants into the marshal's custody and deliver a copy of the writ to the clerk of such State court.''.

(d) CONFORMING AMENDMENTS.—

(1) The table of sections for chapter 89 of title 28, United States Code, is amended—

(A) in the item relating to section 1441, by striking ''Actions removable generally'' and inserting ''Removal of civil actions'';

(B) in the item relating to section 1446, by inserting ''of civil actions'' after ''removal''; and

(C) by adding at the end the following new item:

''1454. Procedure for removal of criminal prosecutions.''.

(2) Section 1453(b) of title 28, United States Code, is amended by striking ''1446(b)'' and inserting ''1446(c)(1)''.

SEC. 104. EFFECTIVE DATE.

(a) IN GENERAL.—Subject to subsection (b), the amendments made by this title shall take effect upon the expiration of the 30-day period beginning on the date of the enactment of this Act, and shall apply to any action or prosecution commenced on or after such effective date.

(b) TREATMENT OF CASES REMOVED TO FEDERAL COURT.—For purposes of subsection (a), an action or prosecution commenced in State court and removed to Federal court shall be deemed to commence on the date the action or prosecution was commenced, within the meaning of State law, in State court.

TITLE II—VENUE AND TRANSFER IMPROVEMENTS

SEC. 201. SCOPE AND DEFINITIONS.

(a) IN GENERAL.—Chapter 87 of title 28, United States Code, is amended by inserting before section 1391 the following new section:

''§ 1390. Scope

''(a) VENUE DEFINED.—As used in this chapter, the term 'venue' refers to the geographic specification of the proper court or courts for the litigation of a civil action that is within the subject-matter jurisdiction of the district courts in general, and does not refer to any grant or restriction of subject-matter jurisdiction providing for a civil action to be adjudicated only by the district court for a particular district or districts.

''(b) EXCLUSION OF CERTAIN CASES.—Except as otherwise provided by law, this chapter shall not govern the venue of a civil action in which the district court exercises the jurisdiction conferred by section 1333, except that such civil actions may be transferred between district courts as provided in this chapter.

''(c) CLARIFICATION REGARDING CASES REMOVED FROM STATE COURTS.—This chapter shall not determine the district court to which a civil action pending in a State court may be removed, but shall govern the transfer of an action so removed as between districts and divisions of the United States district courts.''.

(b) CONFORMING AMENDMENT.—The table of sections at the beginning of chapter 87 of title 28, United States Code, is amended by inserting before the item relating to section 1391 the following new item:

''1390. Scope.''.

SEC. 202. VENUE GENERALLY.

Section 1391 of title 28, United States Code, is amended as follows:

(1) By striking subsections (a) through (d) and inserting the following:

''(a) APPLICABILITY OF SECTION.—Except as otherwise provided by law—

''(1) this section shall govern the venue of all civil actions brought in district courts of the United States; and

''(2) the proper venue for a civil action shall be determined without regard to whether the action is local or transitory in nature.

''(b) VENUE IN GENERAL.—A civil action may be brought in—

''(1) a judicial district in which any defendant resides, if all defendants are residents of the State in which the district is located;

''(2) a judicial district in which a substantial part of the events or omissions giving rise to the claim occurred, or a substantial part of property that is the subject of the action is situated; or

''(3) if there is no district in which an action may otherwise be brought as provided in this section, any judicial district in which any defendant is subject to the court's personal jurisdiction with respect to such action.

''(c) RESIDENCY.—For all venue purposes—

''(1) a natural person, including an alien lawfully admitted for permanent residence in the United States, shall be deemed to reside in the judicial district in which that person is domiciled;

''(2) an entity with the capacity to sue and be sued in its common name under applicable law, whether or not incorporated, shall be deemed to reside, if a defendant, in any judicial district in which such defendant is subject to the court's personal jurisdiction with respect to the civil action in question and, if a plaintiff, only in the judicial district in which it maintains its principal place of business; and

''(3) a defendant not resident in the United States may be sued in any judicial district, and the joinder of such a defendant shall be disregarded in determining where the action may be brought with respect to other defendants.

''(d) RESIDENCY OF CORPORATIONS IN STATES WITH MULTIPLE DISTRICTS.—For purposes of venue under this chapter, in a State which has more than one judicial district and in which a defendant that is a corporation is subject to personal jurisdiction at the time an action is commenced, such corporation shall be deemed to reside in any district in that State within which its contacts would be sufficient to subject it to personal jurisdiction if that district were a separate State, and, if there is no such district, the corporation shall be deemed to reside in the district within which it has the most significant contacts.''.

(2) In subsection (e)—

(A) in the first paragraph—

(i) by striking ''(1)'', ''(2)'', and ''(3)'' and inserting ''(A)'', ''(B)'', and ''(C)'', respectively; and

(ii) by striking ''(e) A civil action'' and inserting the following:

''(e) ACTIONS WHERE DEFENDANT IS OFFICER OR EMPLOYEE OF THE UNITED STATES.—

''(1) IN GENERAL.—A civil action''; and

(B) in the second undesignated paragraph by striking ''The summons and complaint'' and inserting the following:

''(2) SERVICE.—The summons and complaint''.

(3) In subsection (f), by striking ''(f) A civil action'' and inserting ''(f) CIVIL ACTIONS AGAINST A FOREIGN STATE.—A civil action''.

(4) In subsection (g), by striking ''(g) A civil action'' and inserting ''(g) MULTIPARTY, MULTIFORUM LITIGATION.—A civil action''.

SEC. 203. REPEAL OF SECTION 1392.

Section 1392 of title 28, United States Code, and the item relating to that section in the table of sections at the beginning of chapter 87 of such title, are repealed.

SEC. 204. CHANGE OF VENUE.

Section 1404 of title 28, United States Code, is amended—

(1) in subsection (a), by inserting before the period at the end the following: ''or to any district or division to which all parties have consented''; and

(2) in subsection (d), by striking ''As used in this section,'' and inserting ''Transfers from a district court of the United States to the District Court of Guam, the District Court for the Northern Mariana Islands, or the District Court of the Virgin Islands shall not be permitted under this section. As otherwise used in this section,''.

SEC. 205. EFFECTIVE DATE.

The amendments made by this title—

(1) shall take effect upon the expiration of the 30-day period beginning on the date of the enactment of this Act; and

(2) shall apply to—

(A) any action that is commenced in a United States district court on or after such effective date; and

(B) any action that is removed from a State court to a United States district court and that had been commenced, within the meaning of State law, on or after such effective date.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. SMITH) and the gentleman from Georgia (Mr. JOHNSON) each will control 20 minutes.

The Chair recognizes the gentleman from Texas.

GENERAL LEAVE

Mr. SMITH of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 394, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SMITH of Texas. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, first, I would like to thank Ranking Member CONYERS,

Courts Subcommittee Chairman HOWARD COBLE, Courts Ranking Member COHEN, and former Courts Subcommittee Chairman HANK JOHNSON for cosponsoring the bill.

The Federal Courts Jurisdiction and Venue Clarification Act brings more clarity to the operation of jurisdictional statutes and facilitates the identification of the appropriate State or Federal court where actions should be brought.

Judges believe the current rules force them to waste time determining jurisdictional issues at the expense of adjudicating underlying litigation. The contents of this bill are based on recommendations developed and approved by the United States Judicial Conference to address the judiciary's concerns.

This legislation contains a number of revisions to Federal jurisdictional and venue law. Among the changes, the bill clarifies the definition of citizenship for foreign corporations and domestic corporations doing business abroad; separates the removal provisions governing civil cases and those governing criminal cases into two statutes; and creates a general venue statute that unifies the approach to venue in diversity and Federal question cases, while maintaining current venue standards.

Mr. Speaker, I urge Members to support H.R. 394.

I reserve the balance of my time.

Mr. JOHNSON of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 394 is intended to clarify a number of uncertainties and technical flaws in statutory provisions governing Federal court jurisdiction and venue that have come to light in recent years.

The legislation addresses the inefficient rules which judges have identified. These rules have required judges to spend considerable time deliberating jurisdictional issues instead of analyzing the case's facts and applicable laws. In the 111th Congress, we passed similar legislation in the House on a bipartisan basis. Unfortunately, the Senate was unable to pass it before the end of the 111th Congress.

This legislation is based on studies within the judiciary and consultation from academics and legal organizations, including the American Bar Association, Lawyers for Civil Justice, the Federal Bar Association, the American Association for Justice, and the Chamber of Commerce. Additionally, the Judicial Conference of the United States has endorsed this legislation.

I want to thank my friend and sponsor of this bill, Chairman LAMAR SMITH for his continued efforts to strengthen the operations and efficiencies of our Federal judiciary. I urge my colleagues to support this bipartisan legislation.

Ms. JACKSON LEE of Texas. Mr. Speaker, I rise today in support of the H.R. 394, "Federal Courts and Venue Clarification Act of 2011." As a Senior Member of the Judiciary Committee, I am pleased to say that H.R. 394 enjoys strong bipartisan support and completes important work that was commenced during the 111th Congress when we considered and passed this bill in its previous form under H.R. 4113. This legislation has been a priority for Judiciary Chairman LAMAR SMITH, Ranking Member JOHN CONYERS and the many members of this chamber who passed this H.R. 4113 in the 111th Congress. Though, we were able to pass H.R. 4113 in the 111th Congress, the Senate was unable to pass it before the end of the 111th Congress. So today, I am pleased that we have the opportunity to consider and pass H.R. 394 at an early stage in the 112th Congress and provide our Senate colleagues with ample time to pass it as well.

As an Attorney and former Judge, I cannot overemphasize the importance of providing our federal judges and members of the legal profession with clear guidelines regarding issues of jurisdiction and venue. Providing our federal courts with clear guidelines on what cases they can hear under their jurisdiction and the proper venue for hearing such cases is central to the fair and efficient administration of justice in our democratic nation which is squarely based upon the rule of law. To that end, H.R. 394, the "Federal Courts Jurisdiction and Venue Clarification Act of 2010", is intended to clarify a number of uncertainties and technical flaws in statutory provisions governing federal court jurisdiction and venue that have come to light in recent years. The legislation addresses inefficient rules which judges themselves have identified. These rules have required judges to spend considerable time deliberating jurisdictional issues instead of focusing on analyzing the important facts and laws applicable to the cases before them. H.R. 394 provides guidance and a solution to this problem.

The legislation is based on studies undertaken within the judiciary, and with consultation from academicians and legal organizations, including the American Bar Association, Lawyers for Civil Justice, the Federal Bar Association, the American Association for Justice, and the Chamber of Commerce. Additionally, the Judicial Conference of the United States has endorsed this legislation.

In the 1990s, the Judicial Conference Committee on Federal-State Jurisdiction began to identify recurring problems encountered by litigants and judges in applying certain jurisdictional and venue statutes. Following years of study, and consideration of the American Law Institute's Federal Judicial Code Revision Project (2004), the Committee carefully crafted solutions to these particular areas of confusion, in consultation with law professors. The Conference endorsed those solutions, which this legislation embodies. This Act is necessary to clarify important issues of jurisdiction and venue. The bill is intended to facilitate the administration of justice by bringing more clarity to the operation of jurisdictional and venue statutes, thereby helping to reduce wasteful litigation over certain issues.

Under its Jurisdictional provisions, this bill:

Eliminates the "resident alien proviso" and clarifies that district courts do not have diversity jurisdiction over a claim between a citizen of a state and a permanent resident alien domiciled in the same state;

More clearly defines "citizenship" for foreign corporations and domestic corporations doing business abroad, as well as for direct actions against insurance companies;

Ensures that when a federal question claim is removed along with state law claims that are not within the supplemental jurisdiction of the district court or are otherwise non-removable by statute, the federal question claim will proceed in federal court and such state law claims will be remanded to state court;

Separates the removal provisions governing civil cases and those governing criminal cases into two separate statutes, as well as grouped together removal provisions relating solely to actions based on diversity jurisdiction for ease of reference by litigants;

Codifies current practice that all defendants must join in or consent to removal in order for the action to be removed to federal court;

Clarifies the provisions governing timeliness of removal by giving each defendant 30 days after service to file a notice of removal, while allowing any earlier-served defendants to consent to the removal by the later-served defendant;

Permits removal of a case after one year if a plaintiff has acted in bad faith in order to prevent a defendant from removing the action; and

Allows information learned through discovery indicating that a claim is worth more than the minimum amount in controversy for diversity to trigger a new 30-day period in which to remove.

Under its Venue & Transfer provisions, this bill:

Sets forth a definition of venue and codifies the scope of venue provisions;

Creates a unified approach to venue in both diversity and federal question cases, while maintaining current venue standards;

Eliminates the outdated "local action" rule, which restricts where certain actions involving real property can be brought;

Clarifies that a person is deemed to reside in the judicial district in which that person is domiciled;

Provides that unincorporated associations will be treated the same as incorporated associations for determining venue, so that they will also be regarded as residents of any district in which they are subject to personal jurisdiction;

Eliminates a venue defense for persons residing outside the United States and grants a venue defense to permanent resident aliens with a domicile in the United States;

Allows cases to be transferred, for the convenience of the parties and witnesses and in the interest of justice, to any district or division to which all parties have consented; and

Clarifies that transfers of cases from United States district courts (Article III courts) to territorial district courts (Article IV courts) are not permissible.

This bill will finally address and resolve jurisdiction and venue issues that have wasted the time of our federal judiciary for years and will help bring about more efficient administration of justice. So, I ask my colleagues to stand with me today and vote in favor of the H.R. 394, "Federal Courts and Venue Clarification Act of 2011."

Mr. JOHNSON of Georgia. I yield back the balance of my time.

Mr. SMITH of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SMITH)

that the House suspend the rules and pass the bill, H.R. 394, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds being in the affirmative, the ayes have it.

Mr. SMITH of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

SECURING AIRCRAFT COCKPITS AGAINST LASERS ACT OF 2011

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I move to suspend the rules and pass 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, as amended.

The Clerk read the title of the bill.

The text of the bill is as follows:

H.R. 386

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Securing Aircraft Cockpits Against Lasers Act of 2011''.

SEC. 2. PROHIBITION AGAINST AIMING A LASER POINTER AT AN AIRCRAFT.

(a) OFFENSE.—Chapter 2 of title 18, United States Code, is amended by inserting after section 39 the following:

''§ 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.''.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 2 of title 18, United States Code, is amended by inserting after the item relating to section 39 the following new item:

''39A. Aiming a laser pointer at an aircraft.''.

SEC. 3. COMPLIANCE WITH PAYGO.

The budgetary effects of this Act, for the purpose of complying with the Statutory Pay-As-You-Go Act of 2010, shall be determined by reference to the latest statement titled ''Budgetary Effects of PAYGO Legislation'' for this Act, submitted for printing in the Congressional Record by the Chairman of the Committee on the Budget of the House of Representatives, provided that such statement has been submitted prior to the vote on passage.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. DANIEL E. LUNGREN) and the gentleman from Georgia (Mr. JOHNSON) each will control 20 minutes.

The Chair recognizes the gentleman from California.

GENERAL LEAVE

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and to include extraneous material on H.R. 386, the bill currently under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

□ 1420

Mr. DANIEL E. LUNGREN of California. I yield myself such time as I may consume.

Mr. Speaker, the danger of shining a laser beam into someone's eyes is not news. What is news is the ever-increasing number of incidents of laser pointers being directed at the pilots of commercial and law enforcement aircraft.

In 2005, when a similar measure was passed by this body, this emerging threat was estimated at 400 reported incidents over the previous 15 years. By contrast, in 2009, there were almost 1,600 episodes reported. In 2010, there were over 2,800 incidents reported.

As the Airline Pilots Association has stated in its letter of support for this legislation, ''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.''

Mr. Speaker, the danger from shining a laser into the cockpit of any aircraft is truly a tragedy waiting to happen. The ominous prospect of a catastrophe is particularly high during the takeoff and landing stages. Emergency maneuvers to prevent the misperception of midair collisions have also occurred. In one instance, the pilot thought he was about to strike the warning light on a tower. In another case, the laser beam was thought to be the lights of an approaching aircraft.

Law enforcement pilots, unfortunately, are frequently targeted and have to consider the possibility that they are being illuminated by a laser scope attached to a rifle. Law enforcement pilots have, on occasion, been required to discontinue a response to a crime in progress due to being hit by a laser.

At the same time, it is an unfortunate fact that some Federal prosecutors have declined to pursue cases, believing that the current Destruction of Aircraft statute does not fit the facts of their particular laser cases. Some States have statutes that have been successfully used to address this problem, but many more do not. H.R. 386 specifically addresses shining a laser pointer into an aircraft cockpit and will make aircraft travel safer for pilots and the public.

It is not only the number of laser pointers being aimed at aircraft cockpits that has dramatically increased during the past several years. The power of the current generation of laser-pointer devices has also significantly increased. Their cost, on the other hand, has gone down, making them much more widely available.

The problem of lasers being shown into cockpits is so prevalent that in my area, the Sacramento area, the FBI, the FAA, and the Federal Air Marshal Service have joined with State and local law enforcement in establishing a Laser Strike Working Group. These working groups have also expanded into other areas of the country.

H.R. 386 provides an important tool in our efforts to enhance the safety of air travel. This body passed identical language by a voice vote at the close of the 111th Congress. It is my hope that all Members will join me in supporting this important legislation.

I reserve the balance of my time.

Mr. JOHNSON of Georgia. I yield myself such time as I may consume.

Mr. Speaker, I am pleased to support H.R. 386.

This bill establishes criminal penalties for knowingly aiming a laser pointer at an aircraft or in its flight path. Incidents involving lasers aimed at aircraft have raised concerns over the potential threat to aviation safety and national security.

Some are concerned that terrorists might use high-powered lasers to, among other things, incapacitate pilots. There is also concern that laser devices can distract or temporarily incapacitate pilots during critical phases of flight.

Lasers pose a safety hazard to flight operations. Even a brief exposure to a relatively low-powered laser beam can cause discomfort and temporary visual impairment. The visual distractions of a laser can cause a pilot to become disoriented or to lose situational awareness while flying. Higher powered laser