

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

BILL: CS/CS/SB 438

SPONSOR: Appropriations Subcommittee on Public Safety and Judiciary, Criminal Justice Committee, Senators Brown-Waite and Smith

SUBJECT: Piracy of Transportation

DATE: March 11, 2002 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------------------|-----------------------------|-----------------------------|-----------------------------|
| 1. | <u>Erickson</u> | <u>Cannon</u> | <u>CJ</u> | <u>Favorable/CS</u> |
| 2. | <u>Vickers</u> | <u>Meyer</u> | <u>TR</u> | <u>Favorable</u> |
| 3. | <u>Mannelli</u> | <u>Beck</u> | <u>APJ</u> | <u>Favorable/CS</u> |
| 4. | <u> </u> | <u> </u> | <u>AP</u> | <u>Withdrawn: Fav/CS</u> |
| 5. | <u> </u> | <u> </u> | <u> </u> | <u> </u> |
| 6. | <u> </u> | <u> </u> | <u> </u> | <u> </u> |

I. Summary:

The Committee Substitute for Committee Substitute for Senate Bill 438 creates counterparts to aircraft piracy for the hijacking of certain “vessels” and “ground transport,” terms that are specifically defined.

The bill also creates aggravated piracy offenses to address the use of aircraft and certain vessels and ground transport as a weapon (the felony degree of these aggravated crimes ranges from a first degree felony punishable by life to a capital felony, depending upon whether there was injury or death).

This bill amends ss. 860.16 and 921.0022, F.S., and creates ss. 860.161 and 860.162, F.S.

II. Present Situation:

It is a first degree felony for a person, without lawful authority, to seize or exercise control, by force or violence and with wrongful intent, of any aircraft containing a nonconsenting person or persons within this state. s. 860.16, F.S.

There is no identical piracy offense for ground transportation or vessels, though carjacking involves some of the elements of piracy. “Carjacking” means the taking of a motor vehicle which may be the subject of larceny from the person or custody of another, with intent to either permanently or temporarily deprive the person or the owner of the motor vehicle, when in the course of the taking there is the use of force, violence, assault, or putting in fear. s. 812.133(1), F.S.

If in the course of committing the carjacking the offender carried a firearm or other deadly weapon, then the carjacking is a first degree felony punishable by imprisonment for a term of years not exceeding life imprisonment. s. 812.133(2)(a), F.S. If the offender did not carry a firearm, deadly weapon, or other weapon, then the carjacking is a first degree felony. s. 812.133(2)(b), F.S.

An act is deemed “in the course of committing the carjacking” if it occurs in an attempt to commit carjacking or in flight after the attempt or commission. s. 812.133(3)(a), F.S. An act is deemed “in the course of the taking” if it occurs either prior to, contemporaneous with, or subsequent to the taking of the property and if it and the act of taking constitute a continuous series of acts or events. s. 812.133(3)(b), F.S.

III. Effect of Proposed Changes:

The Committee Substitute for Committee Substitute for Senate Bill 438 amends s. 860.16, F.S., which punishes aircraft piracy, to provide that the elements of that offense include seizing or exercise control of the aircraft by “use or threat” of force. Aggravated aircraft piracy offenses are created. The hijacking offense is “aggravated” when combined with the intentional crashing of the aircraft. The aggravated crimes vary from a first degree felony punishable by a minimum of life imprisonment to a capital felony, depending upon whether there was injury or death.

The bill also creates s. 860.161, F.S., which creates vessel piracy and aggravated vessel piracy offenses. These offenses are counterparts to aircraft piracy, except that the aggravated crimes also include sinking vessels. “Vessel” is defined, as are some terms that are excluded from that definition: “personal watercraft” and “specialty prop-craft.” Muscle-powered watercraft, seaplanes, and inflatable watercraft are also specifically excluded.

The bill also creates s. 860.162, F.S., which creates ground transport piracy and aggravated ground transport piracy. These offenses are counterparts to aircraft piracy and vessel piracy and their aggravated crimes, except that the aggravated crimes also include detaching a ground transport from a rail or rails, a track, or a guideway. “Ground transport” includes motor vehicles, railroad trains, or other vehicles propelled by power other than muscular power, that run upon a single rail or upon a track or guideway, and that are used to transport persons or property. “Motor vehicle” and “railroad train” are defined. Muscle-powered vehicles, traction engines, road rollers, motorcycles, mopeds, scooters, and bicycles are excluded.

Offenses created by this bill are ranked for purposes of sentencing under the Criminal Punishment Code, ranging from Level 8 to Level 10 (depending on felony degree). Capital felonies are not ranked in the Code, since the punishment is life imprisonment or death.

The bill takes effect on July 1, 2002.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Economic Impact and Fiscal Note:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference has reviewed this bill and projects an insignificant fiscal impact from the provisions of CS/SB 438.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Amendments:

None.