



Legislative Bulletin February 28, 2011

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**H.R. 394 – The Federal Courts and Venue Clarification Act of 2011
(Smith, R-TX)**

Order of Business: H.R. 394 is scheduled to be considered on Monday, February 28, 2011 under suspension of the rules requiring two-thirds majority vote for passage.

Summary: H.R. 394 would make several changes to judicial procedures, including the determination of original jurisdiction and court venue for certain types of cases. The bill would specify the court of original jurisdiction for certain cases involving resident aliens and corporations. In addition, it would change how the venues for Federal court cases are determined, particularly when the cases involve multiple federal districts. A similar bill last cycle ([H.R. 4113](#)) passed by voice vote in the House of Representatives on September 28, 2010. The Senate adjourned before it could take up an amended version of the bill that now comprises the text of H.R. 394.

Additional Background: The purpose of H.R. 394 is to bring more clarity to the operation of Federal jurisdictional statutes and to facilitate the identification of the appropriate State or Federal court where actions should be brought. Some judges believe the current rules force them to waste time determining jurisdictional issues at the expense of adjudicating underlying litigation. The contents of the bill are based on recommendations developed and approved by the United States Judicial Conference.

Committee Action: H.R. 394 was introduced by Rep. Lamar Smith (R-TX) on January 24, 2011 and referred to the Committee on the Judiciary. The Committee marked up the bill on January 26, 2011 and [reported](#) the bill out favorably on February 11, 2011 without any amendments.

Administration Position: There is no statement of Administrative position with regard to this bill.

Cost to Taxpayers: The Congressional Budget Office (CBO) issued a cost estimate for H.R. 394 on February 3, 2011. The estimate stated that based on the information from the

Administrative Office of the U.S. Courts, implementing H.R. 394 would have no significant budgetary impact and would not affect direct spending or revenues. Pay-as-You-Go procedures do not apply.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: No. H.R. 394 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of State, local, or tribal governments.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 394 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.

Constitutional Authority: The Constitutional Authority Statement published in the Congressional Record upon introduction of the bill states: “The Committee finds the authority for this legislation in article I, section 8, clause 9 and clause 18; and article III, section 1, of the Constitution.”

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H.R. 386 – The Securing Aircraft Cockpits Against Lasers Act of 2011 (Lungren, R-CA)

Order of Business: H.R. 386 is scheduled to be considered on Monday, February 28, 2011 under suspension of the rules requiring two-thirds majority vote for passage.

Summary: H.R. 386 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 jurisdiction of the United States, or its flight path. Criminal penalties include either fines, imprisonment up to five years, or both.

The bill would allow for exceptions in the case of persons conducting tests in coordination with the Federal Aviation Administration, a member of the Department of Defense or Department of Homeland Security conducting research, and an individual using a laser emergency signaling device to send an emergency distress signal.

Additional Background: The term “laser pointer” is defined as 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. When aimed at an aircraft, a laser can

create a visual distraction or cause discomfort or even damage to a pilot's eyes. The Federal Aviation Administration has reported that pilots have had to relinquish control of their aircraft to their copilot. More than 2,800 laser incidents involving aircraft were reported in 2010.

Some perpetrators have been charged under 18 U.S.C. Section 32, relating to the destruction of aircraft. However, this provision requires the government to prove the willful interference and intent to endanger the pilot. This bill recognizes the inherent danger of aiming a laser at an aircraft under any circumstances as long as the offender knowingly aims the laser at the aircraft.

Similar bills have previously passed the House. In the 111th Congress, H.R. 5810 passed by voice vote. In the 110th Congress, H.R. 1615 also passed by voice vote. Finally, H.R. 1400 passed by voice vote in the 109th Congress. According to an older committee report, the number of FAA reported incidents of an individual aiming a laser beam at an aircraft has increased dramatically (400 times since 1990, and 100 times since November 2004). For instance, on November 9, 2005, David Banach of Parsippany, New Jersey, pled guilty to violating the Patriot Act for shining a laser at aircraft on two separate occasions. The guilty plea was part of an agreement in order for Mr. Banach to avoid jail time, which under the Patriot Act could reach up to 20 years.

Committee Action: H.R. 386 was introduced by Rep. Dan Lungren (R-CA) on January 20, 2011 and referred to the Committee on the Judiciary and the Committee on the Budget. The Committee on Judiciary marked up the bill on January 26, 2011 and [reported](#) the bill out favorably on February 11, 2011 without any amendments.

Administration Position: There is no statement of Administrative position with regard to this bill.

Cost to Taxpayers: The Congressional Budget Office (CBO) issued a cost estimate for H.R. 386 on February 2, 2011. The estimate stated that implementing H.R. 386 would have no significant budgetary impact.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. It creates a new federal crime for aiming the beam of a laser pointer at an aircraft or at the aircraft's flight path.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: A statement is not provided.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: 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.

Constitutional Authority: The Constitutional Authority Statement published in the Congressional Record upon introduction of the bill states: “The Committee finds the authority for this legislation in article I, section 8, clause 9 and clause 18; and article III, section 1, of the Constitution.”

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H.R. 368 – The Removal Clarification Act of 2011 (*Johnson, D-GA*)

Order of Business: H.R. 368 is scheduled to be considered on Monday, February 28, 2011 under suspension of the rules requiring two-thirds majority vote for passage.

Summary: H.R. 368 revises the federal judicial code to provide that a civil action or criminal prosecution brought by a federal employee that is commenced in a state court and that is against or directed to the United States (or a federal agency, officer, or specified others) may be removed from a state court to an appropriate U.S. District Court.

Additional Background: Courts have inconsistently applied a Federal statute that allows a Federal officer to remove a state legal cause of action to Federal court when the Federal officer’s involvement only relates to his status as a Federal officer.

Committee Action: H.R. 368 was introduced by Rep. Hank Johnson (D-GA) on January 20, 2011 and referred to the Committee on the Judiciary and the Committee on the Budget. The Committee on Judiciary marked up the bill on January 26, 2011 and reported the bill out favorably by voice vote the same day.

Administration Position: There is no statement of Administrative position with regard to this bill.

Cost to Taxpayers: The Congressional Budget Office (CBO) issued a cost estimate for H.R. 368 on February 3, 2011. The estimate stated that based on information from the Administrative Office of the U.S. Courts, implementing H.R. 368 would have no significant budgetary impact and would not affect direct spending or revenues. Therefore, Pay-as-You-Go procedures do not apply.

Does the Bill Expand the Size and Scope of the Federal Government?: No.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 368 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax

Benefits/Limited Tariff Benefits?: In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 368 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.

Constitutional Authority: The Constitutional Authority Statement published in the Congressional Record upon introduction of the bill states: “Congress has the power to enact this legislation pursuant to the following: Article I, Section 8, Clauses 9 and 18.”

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H.R. 347 – The Federal Restricted Buildings and Grounds Improvement Act of 2011 (Rooney, R-FL)

Order of Business: H.R. 347 is scheduled to be considered on Monday, February 28, 2011 under suspension of the rules requiring two-thirds majority vote for passage.

Summary: H.R. 347 amends Section 1752, Title 18 of the United States Code to prohibit the unlawful breach of certain Federal buildings and grounds. Current law prohibits unlawful entries upon any restricted building or ground where the President, Vice President, or other protectee (First family, former Presidents, visiting heads of States, etc.) is temporarily visiting. However, there is no Federal law that expressly prohibits unlawful entry to the White House and its grounds or the Vice President’s residence and its grounds.

The Secret Service must, therefore, rely upon a provision in the District of Columbia Code, which addresses only minor misdemeanor infractions, when someone attempts to or successfully trespasses upon the grounds of the White House or Vice President’s residence itself. This bill remedies this issue by specifically including the White House, the Vice President’s residence, and their respective grounds, in the definition of restricted buildings and grounds for purposes of Section 1752 of Title 18, United States Code. Criminal penalties apply to those who knowingly enter or remain in any restricted building or grounds without the lawful authority to do so.

Additional Background: The United States Secret Service provides protective services to the President, the First Family, the Vice President, former Presidents, visiting heads of state, and others as necessary. This protection covers not only the White House and its grounds but also anywhere a protectee may be temporarily visiting. The Secret Service also provides protection at events designated as a “special event of national significance.”

H.R. 347 is similar to legislation ([H.R. 2780](#)) that the House approved in the 111th Congress by voice vote on July 27, 2010.

Committee Action: H.R. 347 was introduced by Rep. Thomas Rooney (R-FL) on January 19, 2011 and referred to the Committee on the Judiciary. On January 26, 2011, the Committee [reported](#) the bill out favorably by voice vote on February 11, 2011.

Administration Position: There is no statement of Administrative position with regard to this bill.

Cost to Taxpayers: The Congressional Budget Office (CBO) issued a cost estimate for H.R. 347 on February 2, 2011. The estimate stated implementing H.R. 347 would have no significant cost to the Federal government.

Does the Bill Expand the Size and Scope of the Federal Government?: Yes. It creates a new Federal crime under Section 1752, Title 18, United States Code.

Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?: H.R. 347 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

Does the Bill Comply with House Rules Regarding Earmarks/Limited Tax Benefits/Limited Tariff Benefits?: In accordance with clause 9 of rule XXI of the Rules of the House of Representatives, H.R. 347 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.

Constitutional Authority: The Constitutional Authority Statement published in the Congressional Record upon introduction of the bill states: “The Committee finds the authority for this legislation in article I, section 8, clause 1 of the Constitution.”

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