



Lamorte Client Advisory - Laser Pointers



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The dangerous effects from laser pointers being directed toward modes of transportation and individuals therein has been known for years, most commonly involving aircraft targets but more recently toward maritime vessels. A consequence of concern to owners, operators and managers of vessels navigating in United States waters is recently enacted United States law "AIMING LASER POINTER AT VESSEL", 46 United States Code section 70014. The law as currently effective reads:

(a) Prohibition.--It shall be unlawful to cause the beam of a laser pointer to strike a vessel operating on the navigable waters of the United States.

(b) Exceptions.--This section shall not apply to a member or element 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.

(c) Laser pointer defined.--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.

This law basically replicates law enacted to protect aviation and may allow for a civil penalty of up to USD25,000 and criminal prosecution of an offender with severe penalties of up to 25 years imprisonment and a fine of USD250,000. Because the statute is new, there is not yet a body of interpretive decisions, but the wording is clear. Presumptive factors relevant to violation and penalties may include whether there was malicious intent and whether there was physical injury to a viewer. There are many recorded incidents of visual impairment.

Beyond the civil and criminal sanctions, the offending vessel's operations may be severely hampered by governmental boarding and search, personnel may be detained as potential witnesses, Customs and Boarder Protection may deny clearance necessary for the vessel to sail, a bond or LOG may be required to secure a potential criminal fine as well as other possible inconveniences.

Vessel personnel may not be aware of the prohibition against aiming laser pointers at another vessel, as a result of having seen pilots do so in foreign waters or by believing laser pointers are an accepted means of warning or attracting another vessel under Rule 36 SIGNALS TO ATTRACT ATTENTION and Rule 37 DISTRESS SIGNALS of the International Regulations for Preventing Collisions at Sea, 1972 or related United States statutes.

Simply put, laser pointers should not be directed toward vessels under any circumstance and vessel personnel should immediately be warned accordingly.

