



State of Connecticut
DIVISION OF CRIMINAL JUSTICE

TESTIMONY OF THE DIVISION OF CRIMINAL JUSTICE

IN OPPOSITION TO:

**H.B. No. 6491 (RAISED) AN ACT CONCERNING NONLETHAL ELECTRONIC
DEFENSE WEAPONS.**

JOINT COMMITTEE ON JUDICIARY

March 5, 2021

The Division of Criminal Justice opposes H.B. 6491, An Act Concerning Nonlethal Electronic Defense Weapons. However, to the extent this Committee wishes to proceed, the Division respectfully recommends the Committee amend the bill consistent with the recommendations discussed herein.

H.B. 6491 seeks to remove the inclusion of “electronic defense weapon[s]” from three criminal statutes - §§ 29-38, 53-206, and 53a-217. Pursuant to § 53a-3, electronic defense weapon is defined as “a weapon which by electronic impulse or current is capable of immobilizing a person temporarily, but is not capable of inflicting death or serious physical injury, including a stun gun or other conductive energy device.”

It is the Division’s understanding that this bill stems from the United States Supreme Court’s 2016 ruling in *Caetano v. Massachusetts*, with the belief that the Court found bans on nonlethal defensive instruments to be unconstitutional.

The Division understands that a reading of *Caetano* could support the removal of electronic defense weapons from §§ 29-38 and 53-206. However, in the interests of public safety, any such removal only should be done in conjunction with legislation requiring a permit to carry any such weapon. Therefore, H.B. 6491 should be amended to include (1) either a statute requiring a permit for an electronic defense weapon, or adding that weapon to § 29-28 and any other connected statute; (2) either a statute penalizing possession of an electronic defense weapon without a permit, or adding such weapon to § 29-35; and (3) amendments to any statute proscribing the possession of an electronic defense weapon, adding the caveat “without a proper permit.” Indeed, after the *Caetano* decision, Massachusetts passed legislation regulating electronic defense weapons, including the requirement to be licensed.

With respect to § 53a-217, the Division opposes the removal of electronic defense weapons. This criminal possession of a weapon statute only pertains to certain convicted felons, individuals

subject to a restraining or protective order, individuals who recently have been treated for psychiatric disabilities, etc. Notably, this statute also prohibits such individuals from possessing ammunition, which is not otherwise prohibited.

The Division strongly supports maintaining the inclusion of electronic defense weapons in § 53a-217 for the sake of public safety. The purpose behind the criminal possession statute is to prohibit individuals deemed a potential danger to society from possessing weapons that citizens otherwise could lawfully own. *Caetano* does not effect, and has no bearing, on this purpose or statute.

In conclusion, if the Committee intends on voting H.B. 6491 out of Committee, the Division respectfully recommends the Committee amend the bill to address the public safety concerns addressed herein. We thank the Committee for affording this opportunity to provide input on this matter and would be happy to provide any additional information the Committee might require or to answer any questions that you might have.