

COTTON ♦ FARRELL, P.C.

ATTORNEYS AT LAW

PO Box 1625

Friendswood, Texas 77549

(713) 228-0700

(713) 228-0701 (Fax)

Charles L. Cotton

March 2, 2015

VIA FAX: 512-463-0342

The Honorable Donna Campbell

Texas Senate

P.O. Box 12068, Capitol Station

Austin, TX 78711

Re: SB273 – Unenforceable 30.06 signs and notices

Dear Senator Campbell:

I watched the committee hearing today on several bills and I would like to address some of the inaccurate and misleading testimony provided to the Committee concerning SB273. When evaluating this Bill, it is important that Committee Members keep in mind that it applies **only** to Tex. Penal Code §30.06 **signs that are not enforceable**. The Bill does not diminish a governmental agency's or entity's ability to legally post §30.06 signs that are enforceable. Neither does the Bill reduce the number of locations that are statutorily off-limits per Tex. Penal Code §46.03 or §46.035 and testimony to the contrary was not accurate.

Testimony was given by a representative of the County Judges and Commissioners Association of Texas that was both inaccurate and misleading. Most notably, Mr. Allison implied that §30.06 signs must be posted on locations that host certain events such as racetracks¹ at which NASCAR and dog races are held, as well as certain high school events such as FFA livestock shows. This is not true as such locations are statutorily off-limits per Tex. Penal Code §§46.03(a)(4) and 46.035(b)(2), respectfully, and no §30.06 sign is necessary.

Although §30.06 signs are not required to be posted on government-owned or leased property when the above-referenced activities are ongoing, Tex. Penal Code §30.06(e) allows the posting of such signs, if the governmental entity chooses to do so. The posting of a §30.06 sign does not make the location any more off-limits than they are without a sign, so there is no compelling reason to do so. If a governmental entity or agency chooses to post a §30.06 sign, then they should take care to remove it when the location is no longer off-limits.

¹ Mr. Ellis testified that all racetracks are off-limits for CHLs, but this is inaccurate. The prohibition found on Tex. Penal Code §46.03(a)(4) is subject to the definition of "racetrack" found in Tex. Penal Code §46.01(15) adopting the Texas Racing Act definition as follows: "*Racetrack' means a facility that is licensed under this Act for the conduct of pari-mutuel wagering on greyhound racing or horse racing.*"

Mr. Allison also argued that governmental entities or agencies would be technically in violation of the terms of SB273 “*one minute after an event ended*” unless the governmental agency or entity removed the sign immediately. This argument was clearly a *red herring* bordering on the absurd. No one is going to file a complaint with the Attorney General’s Office (AG) over such a minor infraction. If they did, the AG has the authority to decide whether a suit is warranted and no one can seriously argue that the AG would decide to file suit under the circumstances Mr. Allison presented. The operative language reads:

(f) Before a suit may be brought against a state agency or a political subdivision of the state for a violation of Subsection (a), the attorney general must investigate the complaint to **determine whether legal action is warranted.**

Mr. Allison also complained about Section 2 of SB273 implying that changing the language from “*at any meeting of a governmental entity . . .*” to “*in the room or rooms where a meeting of a governmental entity . . .*” somehow changes current law as well as the point at which Concealed Handgun Licensees (CHLs) can no longer carry self-defense handguns. The change does neither.

The proposed language in Section 2 of the Bill does not change current law. It is a clarification to deal with precisely the erroneous argument made by Mr. Allison. The current language is clear, a CHL cannot carry a handgun “*at any meeting of a governmental entity.*” (Tex. Penal Code §46.035(c).) The clear and unambiguous language of the Code applies only to the location of the meeting, not every square foot of a governmental building that has a conference room or council chambers where the meeting is being held.

Mr. Allison went on to argue that the clarifying language would require that metal detectors or other security measures be moved from the entrance to the building to the entrance of the room where the meeting is being held. This testimony was troubling for a number of reasons, not the least of which is the fact that Mr. Allison essentially admitted that members of his Association are currently posting unenforceable §30.06 signs and screening persons entering the building at a point where it is perfectly legal for a CHL to carry their self-defense handgun, even when a governmental meeting is ongoing.

When all of the rhetoric is stripped away, SB273 applies only to §30.06 signs that are not enforceable. The only reason a person or entity would oppose SB273 is because of a desire to be able to continue the unfettered posting of unenforceable 30.06 signs that intimidate CHLs into not carrying their self-defense handguns where it is perfectly legal to do so.

Sincerely,



CHARLES L. COTTON