

SUBJECT: Regulating the carry of handguns on premises of a governmental entity

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 9 ayes — Phillips, Nevárez, Burns, Dale, Johnson, Metcalf, Moody, M. White, Wray

0 nays

WITNESSES: For — A.J. Louderback, Sheriffs' Association of Texas; Alice Tripp, Texas State Rifle Association; Terry Holcomb, Texas Carry; Judd Earley; (*Registered, but did not testify:* William Travis, Sheriffs' Association of Texas; Gina Holcomb, Texas Carry)

Against — John Dahill, Texas Conference of Urban Counties; (*Registered, but did not testify:* Mark Mendez, Tarrant County Commissioners Court; Conrad John, Travis County Commissioners Court)

On — (*Registered, but did not testify:* Amanda Crawford, Office of Attorney General; Sherrie Zgabay and Oscar Ybarra, Texas Department of Public Safety)

BACKGROUND: Penal Code, sec. 30.06 prohibits concealed carry license holders from carrying a handgun on another's property without effective consent. This law does not apply if the property on which a license holder is carrying a handgun is owned or leased by a government entity and the premises is not one on which the license holder is prohibited from carrying a handgun by Penal Code, secs. 46.03 and 46.035.

Penal Code, sec. 46.03 prohibits individuals from carrying weapons in certain places, including the premises of any government court or offices used by the court.

Penal Code, sec. 46.035 prohibits a license holder from carrying a

handgun openly or in certain places, such as the premises of an establishment, even if open to the public, that derives 51 percent or more of its business from alcohol sales.

DIGEST:

CSHB 226 would prohibit a state agency or political subdivision from posting a sign or similar notice forbidding a concealed carry license holder from carrying a handgun on a premises owned or leased by the government entity unless the license holder was prohibited from carrying a weapon on the premises under Penal Code, secs. 46.03 or 46.035.

The bill would make state agencies and political subdivisions that violated this section liable for civil penalties ranging from:

- \$1,000 up to \$1,500 for the first violation; and
- \$10,000 up to \$10,500 for a second or subsequent violation.

Each day of a continuing violation of improper notice would constitute a separate violation. The bill would require that the civil penalty collected by the attorney general be deposited to the credit of the compensation to victims of crime fund.

A citizen of Texas or a person licensed to carry a concealed handgun could file a complaint with the attorney general that a state agency or political subdivision was in violation of this bill if the citizen or licensee provided the agency or subdivision with written notice describing the violation and the specific location of the sign and if the agency or subdivision did not correct the violation within three business days after receiving the notice.

Before a suit could be brought against a state agency or political subdivision for a violation, the attorney general would be required to investigate the complaint to determine whether legal action was warranted. If so, the attorney general would have to give the chief administrative officer of the agency or subdivision a written notice that:

- described the violation and the specific location of the sign;

- stated the amount of the proposed penalty; and
- gave the agency or subdivision 15 days to remove the sign, cure the violation, and avoid the penalty.

If the attorney general found that legal action was necessary and the agency or subdivision did not cure the violation within the 15-day period, the attorney general or the appropriate county or district attorney could sue to collect the civil penalty. The attorney general also could file a petition seeking equitable relief and would be able to recover certain reasonable expenses incurred in the case.

A suit for improperly prohibiting the carry of concealed weapons could be filed in a district court in Travis County or in a county where the principal office of the state agency or subdivision was located. The sovereign immunity to suit would be waived and abolished to the extent of liability of the agencies or subdivisions.

CSHB 226 also would establish that a license holder committed an offense if a license holder carried a handgun in the room where a meeting of a governmental entity was held if it was an open meeting and the entity provided notice as required for open meetings.

The bill would take effect September 1, 2015, and would apply only to an offense committed on or after that date.