

BILL ANALYSIS

Senate Research Center

S.B. 273
By: Campbell; Birdwell
State Affairs
5/28/2015
Enrolled

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

S.B. 273 allows citizens to file complaints (with evidence) and the attorney general to enforce fines (\$1,000 for a first offense, \$10,000 for subsequent offenses) against political subdivisions that unlawfully post signs that prohibit concealed weapons on property where concealed handgun license holders (CHL holders) are legally permitted to carry. Civil penalties collected by the Office of the Attorney General (OAG) will be deposited in an existing fund to compensate victims of crime.

Currently no enforcement mechanism exists to ensure that political subdivisions follow the law when it comes to allowing CHL holders to exercise their right to legally carry. When uncooperative governments post signs to ban Texas citizens from carrying where it is legal, they are breaking the law and infringing on the second amendment rights of Texas citizens. S.B. 273 provides an enforcement mechanism through the OAG to stop these illegal postings.

S.B. 273 does not expand in any way the types of places under Chapter 46.03 (Places Weapons Prohibited) of the Penal Code where a CHL holder is prohibited or not prohibited from legally carrying.

S.B. 273 amends current law relating to certain offenses relating to carrying concealed handguns on property owned by a governmental entity and provides a civil penalty.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter H, Chapter 411, Government Code, by adding Section 411.209, as follows:

Sec. 411.209. WRONGFUL EXCLUSION OF CONCEALED HANDGUN LICENSE HOLDER. (a) Prohibits a state agency or a political subdivision of the state from providing notice by a communication described by Section 30.06 (Trespass by Holder of License to Carry Concealed Handgun), Penal Code, or by any sign expressly referring to that law or to a concealed handgun license, that a license holder carrying a handgun under the authority of this subchapter is prohibited from entering or remaining on a premises or other place owned or leased by the governmental entity unless license holders are prohibited from carrying a handgun on the premises or other place by Section 46.03 (Places Weapons Prohibited) or 46.035 (Unlawful Carrying of Handgun by License Holder), Penal Code.

(b) Provides that a state agency or a political subdivision of the state that violates Subsection (a) is liable for a civil penalty of:

(1) not less than \$1,000 and not more than \$1,500 for the first violation;
and

(2) not less than \$10,000 and not more than \$10,500 for the second or a subsequent violation.

(c) Provides that each day of a continuing violation of Subsection (a) constitutes a separate violation.

(d) Authorizes a citizen of this state or a person licensed to carry a concealed handgun under this subchapter to file a complaint with the attorney general of the State of Texas (attorney general) that a state agency or political subdivision is in violation of Subsection (a) if the citizen or person provides the agency or subdivision a written notice that describes the violation and specific location of the sign found to be in violation and the agency or subdivision does not cure the violation before the end of the third business day after the date of receiving the written notice. Requires that a complaint filed under this subsection include evidence of the violation and a copy of the written notice.

(e) Requires that a civil penalty collected by the attorney general under this section be deposited to the credit of the compensation to victims of crime fund established under Subchapter B (Crime Victims' Compensation), Chapter 56, Code of Criminal Procedure.

(f) Requires the attorney general, before a suit may be brought against a state agency or a political subdivision of the state for a violation of Subsection (a), to investigate the complaint to determine whether legal action is warranted. Requires the attorney general, if legal action is warranted, to give the chief administrative officer of the agency or political subdivision charged with the violation a written notice that:

(1) describes the violation and specific location of the sign found to be in violation;

(2) states the amount of the proposed penalty for the violation; and

(3) gives the agency or political subdivision 15 days from receipt of the notice to remove the sign and cure the violation to avoid the penalty, unless the agency or political subdivision was found liable by a court for previously violating Subsection (a).

(g) Authorizes the attorney general or the appropriate county or district attorney to sue to collect the civil penalty provided by Subsection (b), if the attorney general determines that legal action is warranted and that the state agency or political subdivision has not cured the violation within the 15-day period provided by Subsection (f)(3). Authorizes the attorney general to also file a petition for a writ of mandamus or apply for other appropriate equitable relief. Authorizes a suit or petition under this subsection to be filed in a district court in Travis County or in a county in which the principal office of the state agency or political subdivision is located. Authorizes the attorney general to recover reasonable expenses incurred in obtaining relief under this subsection, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.

(h) Provides that sovereign immunity to suit is waived and abolished to the extent of liability created by this section.

SECTION 2. Amends Section 46.035(c), Penal Code, as follows;

(c) Provides that a license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under authority of Subchapter H (License to Carry a Concealed Handgun), Chapter 411, Government Code, regardless of whether the handgun is concealed, in the room or rooms where a meeting of a governmental entity is held and if the meeting is an

open meeting subject to Chapter 551 (Open Meetings), Government Code, and the entity provided notice as required by that chapter, rather than providing that a license holder commits an offense if the license holder intentionally, knowingly, or recklessly carries a handgun under the authority of Subchapter H, Chapter 411, Government Code, regardless of whether the handgun is concealed, at any meeting of a governmental entity.

SECTION 3. Makes application of this Act prospective.

SECTION 4. Effective date: September 1, 2015.