

By: Patrick

S.B. No. 38

A BILL TO BE ENTITLED

1 AN ACT
2 relating to certain offenses relating to carrying concealed
3 handguns on property owned or leased by a governmental entity;
4 providing a civil penalty.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Subchapter H, Chapter 411, Government Code, is
7 amended by adding Section 411.209 to read as follows:

8 Sec. 411.209. WRONGFUL EXCLUSION OF CONCEALED HANDGUN
9 LICENSE HOLDER. (a) A state agency or a political subdivision of
10 the state may not provide notice by a communication described by
11 Section 30.06, Penal Code, or by any sign expressly referring to
12 that law or to a concealed handgun license, that a license holder
13 carrying a handgun under the authority of this subchapter is
14 prohibited from entering or remaining on a premises or other place
15 owned or leased by the governmental entity unless license holders
16 are prohibited from carrying a handgun on the premises or other
17 place by Section 46.03 or 46.035, Penal Code.

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

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

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

24 (c) Each day of a continuing violation of Subsection (a)

1 constitutes a separate violation.

2 (d) A citizen of this state or a person licensed to carry a
3 concealed handgun under this subchapter may file a complaint with
4 the attorney general that a state agency or political subdivision
5 is in violation of Subsection (a). A complaint filed under this
6 subsection must include evidence of the violation.

7 (e) A civil penalty collected by the attorney general under
8 this section shall be deposited to the credit of the compensation to
9 victims of crime fund established under Subchapter B, Chapter 56,
10 Code of Criminal Procedure.

11 (f) Before a suit may be brought against a state agency or a
12 political subdivision of the state for a violation of Subsection
13 (a), the attorney general must investigate the complaint to
14 determine whether legal action is warranted. If legal action is
15 warranted, the attorney general must give the chief administrative
16 officer of the agency or political subdivision charged with the
17 violation a written notice that:

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

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

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

27 (g) If the attorney general determines that legal action is

1 warranted and that the state agency or political subdivision has
2 not cured the violation within the 15-day period provided by
3 Subsection (f)(3), the attorney general or the appropriate county
4 or district attorney may sue to collect the civil penalty provided
5 by Subsection (b). The attorney general may also file a petition for
6 a writ of mandamus or apply for other appropriate equitable relief.
7 A suit or petition under this subsection may be filed in a district
8 court in Travis County or in a county in which the principal office
9 of the state agency or political subdivision is located. The
10 attorney general may recover reasonable expenses incurred in
11 obtaining relief under this subsection, including court costs,
12 reasonable attorney's fees, investigative costs, witness fees, and
13 deposition costs.

14 (h) Sovereign immunity to suit is waived and abolished to
15 the extent of liability created by this section.

16 SECTION 2. Section 46.035(c), Penal Code, is amended to
17 read as follows:

18 (c) A license holder commits an offense if the license
19 holder intentionally, knowingly, or recklessly carries a handgun
20 under the authority of Subchapter H, Chapter 411, Government Code,
21 regardless of whether the handgun is concealed, in the room or rooms
22 where a [at any] meeting of a governmental entity is held and if the
23 meeting is an open meeting subject to Chapter 551, Government Code,
24 and the entity provided notice as required by that chapter.

25 SECTION 3. The change in law made by this Act in amending
26 Section 46.035(c), Penal Code, applies only to an offense committed
27 on or after the effective date of this Act. An offense committed

1 before the effective date of this Act is governed by the law in
2 effect on the date the offense was committed, and the former law is
3 continued in effect for that purpose. For purposes of this section,
4 an offense was committed before the effective date of this Act if
5 any element of the offense occurred before that date.

6 SECTION 4. This Act takes effect on the 91st day after the
7 last day of the legislative session.