

123rd JUDICIAL DISTRICT  
PANOLA COUNTY, TEXAS

COUNTY COURT AT LAW  
PANOLA COUNTY, TEXAS

**KATIE NIELSEN**  
*Assistant District Attorney*

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*Criminal District Attorney*

December 29, 2015

The Honorable Lee Ann Jones  
Panola County Judge  
Courthouse  
Carthage, Texas 75633

RE: Attorney General's Opinions KP-0049 & KP0047

Dear Judge Jones:

I have reviewed Attorney General Ken Paxton's Opinion KP-0049 and Opinion KP-0047 which were issued on December 21, 2015 concerning Penal Code 30.06 and 30.07 notifications and signage without risk from incurring a civil penalty under section 411.209 of the Government Code.

After reviewing these opinions and examining relevant Texas law pertaining to this it is my legal opinion that Panola County may designate the Judicial Center as a weapon free zone.

It is also my legal opinion that 30.06 and 30.07 signage prohibiting weapons may be placed on the Commissioners Courtroom doors as well as the doors to both offices of the Justices of the Peace including the Justice of the Peace Courtroom.

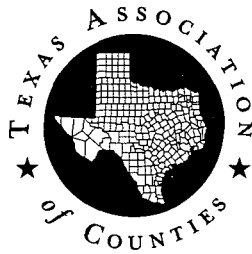
This as you know is a new law passed by our elected legislature that takes effect on January 1<sup>st</sup>, 2016. The Attorney General's opinions while not as clear as I would like are somewhat helpful.

There are many unanswered questions that will be answered in our courts and more Attorney General Opinions are coming. I feel this matter will be fine-tuned in Austin when the legislature meets again. In the meantime we will stay alert to any changes in the laws or legal interpretations and adopt our policies to legally comply for the interest of our citizens.

Please advise if you have any question in this matter.

Sincerely,

Danny Buck Davidson  
Criminal District Attorney



December 21, 2015

Re: Concealed Handgun and Openly Carried Handgun Signs

Dear County Judges, County Attorneys and Sheriffs:

Enclosed are two Attorney General Opinions about whether the statute permitting county officials to ban guns in or on the "premises of any government court or offices utilized by the court" means guns could be excluded from an entire building housing a court or just those portions of a building containing the actual courtroom and supporting offices.

Without answering the question, in Op. No. KP-0047, the Attorney General acknowledges that the "courtroom and offices" language is unclear and implies, but does not state, that a blanket gun ban for an entire building could subject the county to an enforcement action and possible fines. The Opinion goes on to suggest that local authorities consult with the government courts (i.e., district courts, statutory county courts, constitutional county courts and justice of the peace courts) and determine what portions of a building include "government courtrooms and offices essential to the operation of a government court" for themselves. In other words, the Opinion provides little to no guidance at all.

In Op. No. KP-0049, the Attorney General comments again on the lack of clarity surrounding the "courtroom and offices" language and reiterates that concealed handguns may only be prohibited from "government courtrooms and the offices essential to the operation of the courts." Again, it is implied, but not stated, that banning guns from an entire courthouse could subject a county to enforcement action.

We understand that you strive to make the best decisions to support the health, safety, welfare and civil rights of your county residents based on the facts and conditions unique to your local facilities and operations. As more information about the new open and concealed gun laws becomes available, TAC will strive to distribute timely and relevant materials in support of those decisions.

A handwritten signature in black ink, appearing to read "Gene Terry". The signature is fluid and cursive, with a large, sweeping flourish at the end.

Gene Terry  
Executive Director  
Texas Association of Counties



December 18, 2015

Re: Concealed Handgun and Openly Carried Handgun Signs

Dear County Judges, County Attorneys and Sheriffs:

Effective January 1, 2016, if a county wishes to prohibit licensed members of the public from carrying concealed or openly carried handguns into certain county buildings or areas of buildings, specific posting requirements found in Section 30.06 (concealed carry) and Section 30.07 (openly carried) of the Penal Code must be satisfied.

As a service to our Members, TAC is providing Spanish and English versions of the Section 30.06 and Section 30.07 signs that conform to the size, color and language content requirements established by law.

The Texas Attorney General has received multiple requests seeking clarification about where local governments may ban either concealed or openly carried handguns. For example, one request seeks clarification as to whether a county may prohibit handguns from an entire courthouse, or whether the county may only prohibit licensed carriers from bringing handguns into the courtroom itself. All of those requests are pending a response from the Attorney General's Office. TAC will notify county officials as guidance becomes available.

A handwritten signature in black ink, appearing to read "Karen C. Gladney", with a long horizontal flourish extending to the right.

Karen C. Gladney  
General Counsel  
Texas Association of Counties



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

December 21, 2015

The Honorable Allison Palmer  
51st Judicial District Attorney  
124 West Beauregard  
San Angelo, Texas 76903-5850

Opinion No. KP-0047

Re: The extent to which firearms may be excluded from buildings that contain courts, offices utilized by the courts, and other county officials (RQ-0040-KP)

Dear Ms. Palmer:

You seek an opinion about whether provisions of the Penal Code prohibit the exclusion of firearms from certain county buildings.<sup>1</sup> You state that the Tom Green County Sheriff currently secures the district courthouse and the Tom Green County Justice Center and does not allow firearms inside the buildings even if the carrier has a concealed handgun license. *See* Request Letter at 1. You also tell us about the different offices that are located within other county buildings that house courts and ask whether firearms may be excluded from each of these buildings “even if the possessor of the firearm has a concealed handgun license.” *Id.* at 2.

Chapter 411 of the Government Code was amended in 2015 with the enactment of Senate Bill 273. Act of May 23, 2015, 84th Leg., R.S., ch. 593, § 1, 2015 Tex. Gen. Laws 2000, 2000–2001 (codified at TEX. GOV’T CODE § 411.209). The primary change under Senate Bill 273 is the creation of enforcement measures available against the state or a political subdivision that seeks to wrongfully exclude a person from carrying a handgun where the person may lawfully do so. *See id.* Section 411.209 provides:

A state agency or a political subdivision of the state may not provide notice by a communication described by Section 30.06, 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

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<sup>1</sup>*See* Letter from Honorable Allison Palmer, 51st Judicial Dist Att’y, to Honorable Ken Paxton, Tex Att’y Gen. at 1–2 (July 14, 2015), <https://www.texasattorneygeneral.gov/opinion/requests-for-opinion-rqs> (“Request Letter”)

prohibited from carrying a handgun on the premises or other place by Section 46.03 or 46.035, Penal Code.

TEX. GOV'T CODE § 411.209(a); *see also id.* §§ 411.171–.209 (subchapter H providing for the licensing of handguns).<sup>2</sup> Because section 411.209 references sections 46.03, 46.035, and 30.06 of the Penal Code, we briefly discuss each provision. *See id.* § 411.209(a).

Section 46.03 of the Penal Code prohibits a person, including a licensee, from carrying firearms and other prohibited weapons, including handguns, in certain locations identified in the section.<sup>3</sup> *See* TEX. PENAL CODE § 46.03(a), (f) (“Except as provided by Subsection (e-1), it is not a defense to prosecution under this section that the actor possessed a handgun and was licensed to carry a concealed handgun under Subchapter H, Chapter 411, Government Code.”). The enumerated locations include premises of schools and educational institutions, polling places during voting, and other specified locations. *See id.* § 46.03(a)(1)–(6). Relevant here, section 46.03 prohibits handguns from “the premises of any government court or offices utilized by the court, unless pursuant to written regulations or written authorization of the court.” *Id.* § 46.03(a)(3).

Penal Code section 46.035 lists the locations where a license holder may not carry a handgun. *See id.* § 46.035(b). The list of prohibited places in section 46.035 includes the premises of certain businesses involved in the sale of alcoholic beverages, the premises of a correctional facility, the premises of certain places of worship, and “in the room or rooms where a meeting of a governmental entity is held and if the meeting is an open meeting.”<sup>4</sup> *Id.* § 46.035(b)(1)–(6), (c).

Section 30.06 of the Penal Code is a criminal trespass statute that essentially allows property owners to prohibit license holders from carrying concealed handguns onto their property by providing the prescribed notice. *See id.* § 30.06(a)–(b); *see also id.* § 30.06(c)(3) (providing exact language necessary to be included on any written communication intended to provide notice that entry with a handgun is prohibited). But it excepts that property which is “owned or leased by a governmental entity and is not a premises or other place on which the license holder is prohibited from carrying the handgun under section 46.03 or 46.035.” *Id.* § 30.06(a), (e). The exception in subsection 30.06(e) means that a governmental entity does not have general authority to prohibit concealed handguns from its public buildings other than a location listed in sections 46.03 and 46.035. *See id.* § 30.06(e); *see also* SENATE COMM. ON STATE AFFAIRS, BILL ANALYSIS, Tex. S.B. 273, 84th Leg., R.S. (2015) at 1 (“When uncooperative governments post signs to ban Texas citizens from carrying where it is legal, they are breaking the law and infringing on the

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<sup>2</sup>House Bill 910, also passed in 2015, amended subchapter H and mostly removed the requirement of concealment with respect to an individual’s license to carry a handgun. *See* Act of May 29, 2015, 84th Leg., R.S., ch 437, §§ 16–28, 2015 Tex. Gen. Laws 1706, 1710–1714 (codified at various provisions in TEX. GOV'T CODE ch 411, subch. H).

<sup>3</sup>As you ask about only section 411 209 of the Government Code, we limit this opinion to a consideration of only the prohibition of handguns.

<sup>4</sup>You do not ask us to address the scope of subsection 46.035(c). *See* Request Letter at 1–2.

second amendment rights of Texas citizens. S.B. 273 provides an enforcement mechanism . . . to stop these illegal postings.”).

Taken together, these three provisions authorize a political subdivision to prohibit handguns from only the locations identified in Penal Code sections 46.03 and 46.035. Your questions do not implicate any limitation or expansion of the kinds of locations from which a governmental entity may prohibit handguns. Rather, you ask only about the scope of the location identified in subsection 46.03(a)(3) concerning the “premises of any government court or offices utilized by a court.” Request Letter at 1; TEX. PENAL CODE § 46.03(a)(3). Your questions implicate many fact sensitive issues that cannot be resolved in an attorney general opinion. However, we will provide the legal guidance that we can.

When construing statutes, courts seek to ascertain and give effect to the Legislature’s intent. *See Entergy Gulf States, Inc. v. Summers*, 282 S.W.3d 433, 437 (Tex. 2009). “The plain meaning of the text is the best expression of [that] intent[.]” *Molinet v. Kimbrell*, 356 S.W.3d 407, 411 (Tex. 2011). “If a statute . . . assigns a particular meaning to a term, [courts] are bound by the statutory usage.” *TGS-NOPEC Geophysical Co. v. Combs*, 340 S.W.3d 432, 439 (Tex. 2011). “Undefined terms . . . are typically given their ordinary meaning[.]” *Id*

To determine the scope of the prohibition in subsection 46.03(a)(3), we need to construe the phrase “premises of any government court or offices utilized by the court,” which requires an examination of the term “premises.” TEX. PENAL CODE § 46.03(a)(3). Subsection 46.035(f) defines the term “premises” for purposes of section 46.03. *Id.* § 46.035(f)(3); *see also id.* § 46.03(c)(1) (defining “premises” by reference to section 46.035). “‘Premises’ means *a building or a portion of a building*. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.” *Id.* § 46.035(f)(3) (emphasis added). “[T]he word ‘or’ is a disjunctive conjunction that indicates a choice between two alternatives generally corresponding to ‘either’ or ‘either this or that.’” *Gunn v Phillips*, 410 S.W.2d 202, 206 (Tex. Civ. App.—Houston 1966, writ ref’d n.r.e.). The common meaning of “building” is “a structure with a roof and walls, such as a house, school, store, or factory.” NEW OXFORD AMERICAN DICTIONARY 228 (3d ed. 2010); *see also* TEX. PENAL CODE § 30.01(2) (defining “building” as “any enclosed structure intended for use or occupation as a habitation or for some purpose of trade, manufacture, ornament, or use”). Section 46.03 neither provides nor directs us to a definition of “government court,” but article V, section 1 of the Texas Constitution vests judicial power in listed courts and “such other courts as may be provided by law.”<sup>5</sup> TEX. CONST. art. V, § 1. It is likely that a court would determine that a “government court” under section 46.03 is any of the judicial bodies created by either the Texas Constitution or by the Legislature. We also consider the meaning of “offices utilized by the court.” TEX. PENAL CODE § 46.03(a)(3). Section 46.03 does not define the term “office,” but a Texas court of appeals has defined “office”

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<sup>5</sup>The Legislature has provided for the courts in chapters 22 through 30 of the Government Code, which contain provisions for each of the different types of courts, and all of which have judicial authority to determine rights as between persons or property. *See* TEX. GOV’T CODE §§ 22.001–302 (appellate courts), 24.001–954 (district courts), 25.0001–2702 (statutory county courts), 26.001–353 (constitutional county courts), 27.001–061 (justice courts), 29.001–105 (municipal courts), 30.00001–01904 (municipal courts of record). Created by the Texas Constitution or by the Legislature, these bodies are courts established by the government

as a “place where a particular kind of business . . . is transacted.” *Anderson v State*, 17 Tex. Ct. App. 305, 310 (1884). The common meaning of “utilize” is to “make practical and effective use of.” NEW OXFORD AMERICAN DICTIONARY 1909 (3d ed. 2010).

Thus, the phrase “premises of any government court” generally means either (1) a structure utilized by a court created by the Texas Constitution or the Legislature, or (2) a portion of such a structure. And the premises of an office utilized by the court generally means a building or portion of a building that is a place where the business of a government court is transacted.

But such alternatives still do not provide any clarity with respect to where section 46.03 prohibits handguns. If the Legislature intended for the entire structure with a government court in it to be a location from which firearms are excluded, it could have redefined “premises” to mean only a building. *See Kappus v. Kappus*, 284 S.W.3d 831, 835 (Tex. 2009) (recognizing that the Legislature chooses “its words carefully and intentionally”). It did not. To so construe subsection 46.03(a)(3) would essentially render the language “portion of a building” meaningless—a construction that, like the courts, we try to avoid. *See Hanson v. Jordan*, 198 S.W.2d 262, 263 (Tex. 1946) (stating that courts “should avoid a construction which renders any provision meaningless”). By including the “portion of a building” language, the Legislature evidenced an intent to have the prohibition in subsection 46.03(a)(3) equally apply to an area that is less than the entire structure. Thus, the disjunctive “or” in the phrase may not provide a discretionary choice between two alternatives as much as recognition that flexibility is necessary to accommodate the different kinds of spaces courts utilize in various types of buildings.

Further, when considering the statute as a whole, under subsection 46.03(a)(3) a court may issue written regulations or provide authorization concerning the allowance of firearms on its premises. *See TEX. PENAL CODE* § 46.03(a)(3) (establishing an offense for carrying a prohibited weapon “on the premises of any government court or offices utilized by the court, unless pursuant to written regulations or authorization of the court”). A court’s authority with regard to such regulations or authorization would not include areas of the building that are beyond the operations of the court. This is some indication that the Legislature intended the prohibition in subsection 46.03(a)(3) to have a limited reach.

Yet, in the greater context of section 411.209’s penalty against a governmental entity improperly excluding handguns, the Legislature also amended subsection 46.035(c), Penal Code, to prohibit handguns from the “*room or rooms* where a meeting of a governmental entity is held.” *TEX. PENAL CODE* § 46.035(c) (emphasis added). By this amendment, the Legislature indicated that it knows how to limit the handgun prohibition to a specific room in which an activity is conducted. The Legislature chose to use the term “government court,” instead of government courtroom. *Id.* § 46.03(a)(3). So, though the Legislature may have intended subsection 46.03(a)(3) to have a limited reach, it did not expressly limit section 46.03(a)(3) to only the room that houses the government court.

The Legislature has not clearly demarcated, or established, a precise boundary in a building or portion of a building at which handguns are prohibited or permitted. Yet, it has established an enforcement scheme that can be properly effectuated only where such a boundary is determined and definitive. Similarly, the Legislature has not provided the Attorney General’s Office with

specific authority to make rules governing this enforcement scheme. While the outside limits of subsection 46.03(a)(3) may be unclear, at the very least it can be said that the Legislature intended to prohibit concealed handguns from the rooms that house government courts and offices central to the business of the courts.<sup>6</sup> Accordingly, in the absence of clarity from the Legislature and in order to provide concrete advice to governmental entities seeking to secure their courts without penalty, we construe subsection 46.03(a)(3) to encompass only government courtrooms and those offices essential to the operation of the government court. Section 46.03(a)(3) recognizes the power of government courts to override the ban on concealed handguns in that a court may issue “written regulations or written authorization” allowing the carrying of concealed handguns in their spaces. Likewise, we routinely acknowledge that decisions such as this are for the governmental entity in the first instance, subject to the applicable review. *See, e.g.*, Tex. Att’y Gen. Op. KP-0007 (2015) at 2 (concluding that the determination of whether the expenditure of public funds is for a public purpose is for the governmental body in the first instance, subject to judicial review). Accordingly, the responsible authority that would notify license holders of their inability to carry on the respective premises must make the determination of which government courtrooms and offices are essential to the operation of the government court. And it is that authority that could face the statutory civil penalty. TEX. GOV’T CODE § 411.209(a) (prohibiting “[a] state agency or a political subdivision of the state” from providing improper notice). If this authority is not the government court itself, the responsible authority would presumably consult with the government court to determine what government courtrooms and offices are essential to its operation.

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<sup>6</sup>Toward that end, these parameters from the Legislature will presumably prevent a governmental body from using pretext to attempt to exclude the licensed carrying of handguns where the law allows it.



S U M M A R Y

For purposes of section 411.209 of the Government Code, the phrase “premises of any government court” used in Penal Code subsection 46.03(a)(3) generally means either (1) a structure utilized by a court created by the Texas Constitution or the Legislature, or (2) a portion of such a structure. The premises of a “government court or office utilized by the court” means a government courtroom or those offices essential to the operation of the government court. The responsible authority that would notify license holders of their inability to carry on the respective premises must make the determination of which government courtrooms and offices are essential to the operation of the government court, in consultation with the government court.

Very truly yours,



KEN PAXTON  
Attorney General of Texas

CHARLES E. ROY  
First Assistant Attorney General

BRANTLEY STARR  
Deputy Attorney General for Legal Counsel

VIRGINIA K. HOELSCHER  
Chair, Opinion Committee

CHARLOTTE M. HARPER  
Assistant Attorney General, Opinion Committee



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

December 21, 2015

The Honorable Wesley H. Mau  
Hays County Criminal District Attorney  
712 South Stagecoach, Suite 2057  
San Marcos, Texas 78666

Opinion No. KP-0049

Re: Questions regarding a notice prohibiting entry with a handgun onto certain premises under section 30.06 of the Penal Code and section 411.209 of the Government Code (RQ-0051-KP)

Dear Mr. Mau:

You present several questions about what constitutes a violation of section 411.209 of the Government Code as implicated by Penal Code section 30.06, which provides for a notice to prohibit entry with a handgun onto certain premises.<sup>1</sup> In connection with your request, you tell us that the Hays County Government Center ("Center") is "a large, three-story structure housing a variety of government offices." Request Letter at 1. You indicate that many of the offices in the Center are inhabited by courts or offices utilized by the courts but that several offices in the Center "do not serve the courts." *Id.* at 2. And you inform us that Hays County has historically prohibited weapons from being carried within the entire building. *Id.* You tell us that several signs are posted in the parking lot and at the entrance to the Center indicating that it is a "Weapons Free Zone." *Id.* Further, you tell us that "a metal-detector-equipped security checkpoint" is located a short distance inside the entrance to the Center. *Id.* You also indicate that "there are no '30.06 signs' posted, and the existing signage does not reference 'a law or a concealed handgun license.'" *Id.* at 2-3. Finally, you state that the sheriff's deputies provide notice to licensees upon passing through the security station "that they may not proceed into the building with a firearm" due to subsection 30.06(a)(2)(B) of the Penal Code. *Id.* at 3.

With this context, you specifically ask:

- (1) Does a sign that says, "Weapons Free Zone," but which does not include the language of [subsection] 30.06(c)(3)(A), violate the restrictions imposed on the government by [section] 411.209,

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<sup>1</sup>See Letter from Honorable Wesley H. Mau, Hays Cnty. Crim. Dist. Att'y, to Honorable Ken Paxton, Tex. Att'y Gen. at 1, 3 (Sept 9, 2015), <https://www.texasattorneygeneral.gov/opinion/requests-for-opinion-rqs> ("Request Letter").

generally (*i e*, whether or not the Hays County Government Center constitutes court premises)?

- (2) Does oral notice by a security deputy to a license holder that he may not enter a building housing court[s] and offices used by the courts, but which building also houses offices not directly used by the courts, such as the Hays County Government Center, violate the restrictions imposed on the government by [section] 411.209?
- (3) Is a license holder who wishes to enter the Government Center in violation of Texas Penal Code [section] 30.06, if the license holder is told by security personnel that possessing a firearm in the building is prohibited and the license holder refuses to relinquish any carried firearms and also refuses to exit the building?

Request Letter at 3. Relevant to your questions, subsection 411.209(a) provides that

[a] state agency or a political subdivision of the state<sup>2</sup> may not provide notice by a communication described by Section 30.06, 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 or 46.035, Penal Code.

TEX. GOV'T CODE § 411 209(a) (footnote added). As an initial matter, attorney general opinion KP-0047 recognized that the relationship between sections 30.06, 46.03, and 46.035 authorizes a governmental entity of the state to prohibit handguns from only those locations identified by sections 46.03 and 46.035. *See* Tex. Att'y Gen. Op. No. KP-0047 (2015) at 3. Opinion KP-0047 also concluded that although the full scope of subsection 46.03(a)(3) is unclear, it is at least clear that the Legislature intended to prohibit concealed handguns from government courtrooms and the offices essential to the operation of the courts. *See id* at 4–5. Thus, it is only the courtrooms, and those offices determined to be essential to their operations, from which Hays County may prohibit concealed handguns without risk of incurring the civil penalty in section 411.209 of the Government Code.

However, your first two questions also implicate the question whether certain notices “violate the restrictions imposed on the government by [section] 411.209.” Request Letter at 3. Subsection 411.209(a) does not create an offense and penalty regarding the manner of the notice;

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<sup>2</sup>Hereinafter collectively referred to as “governmental entity.”

instead, it creates an offense and penalty for a governmental entity that seeks to prohibit a licensee from carrying a handgun onto premises where handguns are lawfully permitted. *See* TEX. GOV'T CODE § 411.209(a). Thus, these questions present the issue of whether a written notice that does not conform to the language required of a “written communication” in subsection 30.06(c)(3)(A), or an oral notice, function as notice to a licensee that handguns are prohibited such that if posted in an area where handguns are permitted would serve as grounds to support a complaint against the governmental entity. In other words, we must determine whether subsection 411.209(a) is implicated by an oral notice or a written notice that does not conform to the language provided in section 30.06.

In our consideration of section 411.209, we are mindful that the primary canon of statutory construction is to determine the intent of the Legislature. *City of Lorena v BMTP Holdings, L.P.*, 409 S.W.3d 634, 641 (Tex. 2013). Like the courts, we seek that intent first and foremost from the text. *See id.* Courts only “resort to rules of construction or extrinsic aids” when a statute’s words are ambiguous. *Entergy Gulf States, Inc v. Summers*, 282 S.W.3d 433, 437 (Tex. 2009); *see also* TEX. GOV'T CODE § 311.023(3), (5) (allowing for the consideration of legislative history or the “consequences of a particular construction” to aid in statutory construction).

The language of subsection 411.209(a) broadly refers to a notice that is “a communication described by Section 30.06, Penal Code” or “any sign expressly referring to that law or to a concealed handgun license.” TEX. GOV'T CODE § 411.209(a). Section 30.06 describes notice given orally or by “written communication.” *See* TEX. PENAL CODE § 30.06(b), (c)(3)(A)–(B) (specifying language for a “written communication”). Yet, other subsections of 411.209, which govern the attorney general’s enforcement of section 411.209, refer to only a sign. *See* TEX. GOV'T CODE § 411.209(d) (requiring citizen complaint to describe the “specific location of the sign found to be in violation”) (emphasis added), (f)(1) (requiring the office of the attorney general to give a governmental entity notice that “describes the violation and specific location of the sign”) (emphasis added), (f)(3) (authorizing the office of the attorney general to give the governmental entity fifteen days “to remove the sign and cure the violation”) (emphasis added). This limited language about a sign differs from the initial and broad description of a “communication described by section 30.06.” *Id.* § 411.209(a). Again, the Legislature has not acted with great clarity in this matter and enacted section 411.209 with internal ambiguities regarding the nature of the notice, the giving or posting of which by a governmental entity may subject the governmental entity to a penalty. Thus, we consider relevant legislative history. *See id.* § 311.023(3) (allowing for the consideration of legislative history to aid in statutory construction).

The bill analysis for Senate Bill 273, enacting section 411.209, states that “[w]hen 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 . . . to stop these illegal postings.” SENATE COMM. ON STATE AFFAIRS, BILL ANALYSIS, Tex. S.B. 273, 84th Leg., R.S. (2015) at 1. A similar motivation was behind the Legislature’s 2003 addition of subsection 30.06(e) of the Penal Code, which operates to preclude a governmental entity from prohibiting the carrying of handguns from premises other than those listed in sections 46.03 and 46.035. *See* TEX. PENAL CODE § 30.06(e). The bill analysis for the enactment of subsection 30.06(e) acknowledged that some governmental entities have misinterpreted the law to “allow[] them to ban weapons in any location other than the specific

places listed in the statute.” House Research Org, Bill Analysis, Tex. S.B. 501, 78th Leg., R.S., (2003) at 3–4. These statements are evidence that the Legislature intended to prevent governmental entities from trying to prohibit a licensee from carrying a handgun in locations other than ones identified in sections 46.03 or 46.035. These statements also indicate the Legislature intended to create an enforcement mechanism for subsection 30.06(e) to give teeth to the restriction against governmental entities improperly seeking to exclude licensees from carrying handguns into lawful areas. Subsection 411.209(a) can reasonably be construed to be this enforcement mechanism intended to induce governmental entities to comply with the law.

To effectuate the Legislature’s intent to prevent governmental entities from seeking to wrongly exclude handguns from where they are lawful, a court would likely construe section 411.209 to be implicated by any type of notice that seeks to improperly prohibit handguns. Thus, any oral notice given by a governmental entity regarding the prohibition of handguns, if given where handguns are lawful, can serve as an improper exclusion in violation in section 411.209. And the sign about which you inquire that does not use the statutory language but states that the Center is a “Weapons Free Zone,” if placed in an area where handguns are allowed, would similarly invoke the enforcement mechanism of section 411.209.

This conclusion is bolstered by the fact that to conclude otherwise would thwart the intent of the Legislature. *See* TEX. GOV’T CODE § 311.023(5) (authorizing in statutory construction the consideration of the “consequences of a particular construction”). If section 411.209 were construed such that a violation for the exclusion of handguns occurred only if the improperly placed notice was a written communication conforming to section 30.06, a governmental entity could avoid penalty by either providing oral notice or providing a nonconforming written notice. That is contrary to the Legislature’s intent to stop governmental entities from infringing on Texas citizens’ rights to carry handguns wherever the law allows.

Your third question involves a license holder who, upon receiving proper notice, refuses to relinquish any concealed handguns or who refuses to exit the building. *See* Request Letter at 3. The plain language of section 30.06 provides that a license holder commits an offense if the license holder carries a concealed handgun on the property of another without consent and received notice that entry on the property with a concealed handgun was forbidden. *See* TEX. PENAL CODE § 30.06(a). By the terms of the statute, a license holder carrying a concealed handgun who fails, after notice, to exit premises from which sections 46.03 or 46.035 prohibit concealed handguns commits an offense generally punishable as a Class A misdemeanor. *Id.* § 30.06(d). Conversely, a licensee who refuses to relinquish any concealed handgun or refuses to exit the building after being given notice by a governmental entity does not commit an offense if the building is not one from which sections 46.03 and 46.035 prohibit concealed handguns. *See id.* § 30.06(e).

S U M M A R Y

Pursuant to Opinion KP-0047, it is only the courtrooms, and those offices determined to be essential to their operations, from which Hays County may prohibit concealed handguns without risk of incurring a civil penalty under section 411.209 of the Government Code.

A court would likely conclude that section 411.209 of the Government Code can be implicated by a governmental entity that seeks to improperly prohibit handguns from a place where handguns may be lawfully carried through oral notice or by a written notice that does not conform to section 30.06 of the Penal Code.

By the terms of section 30.06 of the Penal Code, a license holder carrying a concealed handgun who refuses, after notice by the governmental entity, to exit premises from which Penal Code sections 46.03 or 46.035 prohibit handguns commits an offense punishable as a misdemeanor. Conversely, a licensee who refuses to relinquish any concealed handgun or refuses to exit the building after being given notice by a governmental entity does not commit an offense if the building is not one from which sections 46.03 and 46.035 prohibit concealed handguns.

Very truly yours,



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