



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 30, 2016

Gregg Hudson
CEO and President
Dallas Zoo
650 South R. L. Thornton Freeway
Dallas, Texas 75203

RE: Wrongful Exclusion of Handgun License Holder Complaint – No Violation
Dallas Zoo
OAG Complaint No. 14

The Office of the Attorney General (“OAG”) received a citizen complaint, pursuant to section 411.209 of the Government Code, concerning the wrongful exclusion of handgun license holders from the Dallas Zoo. After investigating the citizen complaint, the OAG determines there is not a violation of section 411.209.

Section 411.209(a) of the Government Code states as follows:

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

TEX. GOV’T CODE § 411.209(a).

Generally, a political subdivision may post a Penal Code section 30.06 (“30.06”) or concealed handgun sign to warn handgun license holders against trespassing on the premises where weapons are prohibited by section 46.03 or 46.035 of the Penal Code.

Section 46.035 of the Penal Code makes it unlawful for license holders to carry handguns at certain places. Violation of section 46.035 of the Penal Code may constitute a Class A misdemeanor or third degree felony depending on where the offense was committed. Specifically, section 46.035(b)(5) makes it an offense “if the license holder intentionally, knowingly or recklessly carries a handgun . . . on or about the license holder’s person” in an amusement park. TEX. PENAL CODE § 46.035(b).

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Amusement park is defined as:

[A] permanent indoor or outdoor facility or park where amusement rides are available for use by the public that is located in a county with a population of more than one million, encompasses at least 75 acres in surface area, is enclosed with access only through controlled entries, is open for operation more than 120 days in each calendar year, and has security guards on the premises at all times. The term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.

TEX. PENAL CODE § 46.035(f)(1).

In this instance, the citizen complaint states that, at the front entrance of the Dallas Zoo (the “zoo”) located at 650 South R.L. Thornton Freeway, Dallas, TX 77030, there is a 30.06 sign warning handgun license holders not to enter the premises with their concealed handguns or they will be prosecuted. After receiving additional information about this complaint, the OAG notes the zoo is owned by the City of Dallas (the “city”), but operated and managed by Dallas Zoo Management, Inc. (“DZM”). DZM is an independent, private non-profit corporation that receives a management fee from the city to operate the zoo.

The OAG received a copy of a brief, dated November 25, 2015, sent to the complainant by David Harper of Haynes & Boone law firm, an attorney representing DZM. DZM asserts the zoo is not in violation of section 411.209 of the Government Code because the zoo qualifies as an amusement park in accordance with sections 46.035(b)(5) and (f)(1) of the Penal Code. According to DZM, the zoo is located in Dallas County, Texas, which has a population of approximately 2.5 million people as of a 2014 estimate by the United States Census Bureau. The zoo contains 106 developed acres that are enclosed with access only through controlled entries. There are security guards on the premises at all times and the zoo is open 364 days a year. Further, the zoo has several amusement rides, such as the Endangered Species Carousel, which are classified as “amusement rides” subject to the Amusement Ride Safety Inspection and Insurance Act of Chapter 2151 of Occupations Code. These amusement rides are inspected by the Texas Department of Insurance each year.

Because the zoo meets all of the requirements to qualify as an amusement park in accordance with Penal Code §§ 46.035(b)(5) and (f)(1), the OAG determines the 30.06 sign at the front entrance of the zoo is not in violation of section 411.209 of the Government Code. The OAG is closing this complaint.

If you have any questions, feel free to email me at matthew.entsminger@texasattorneygeneral.gov or call me at 512-475-4186.

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Sincerely,

A handwritten signature in black ink, appearing to read 'M. Entsminger', with a long horizontal stroke extending to the right.

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cc: Complainant