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*The Senate of
The State of Texas*

RECEIVED

SEP 14 2007

OPINION COMMITTEE

The Honorable Greg Abbott
Office of the Attorney General
PO Box 12548
Austin, TX 78711-2548

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Comal	Kendall
Guadalupe	Travis (south)

RQ-0621-GA

FILE # ML-45356-07
I.D. # 45356

Dear General Abbott:

SB 182, and companion bill HB 1092, sought to make changes to the Texas Penal Code concerning criminal trespassing on Recreational Vehicle Parks in Texas. In relation to recreational vehicle parks the two bills simply added the words "recreational vehicle park" in Section 30.05 (a) and Section 30.05 (b) (8) reiterated the definition of a recreational vehicle park as defined in Section 522.004, Transportation Code.

The problem stems from a request by numerous local law enforcement officials seeking clarification on enforcement of trespass laws as it concerns a business like a recreational vehicle park that provides a service to customers. In fact, the commercial campground business has evolved over the last 15 years from what may have been perceived as the trailer park industry that may have offered an alternative style of living to now a resort-style destination for affluent travelers looking for the best of services. According to tourism officials, change in the statute was necessary and provided the following examples:

1. A guest has paid their fees to stay at the RV Park, use the services provided and obey the rules. If they become unruly or refuse to abide by the park rules – they are asked to leave. If they refuse to leave the police are called. The law is unclear when it comes to trespass and RV parks – with law enforcement in the field uncertain of their ability to act under the Penal Code or consider this a civil issue for a JP to resolve. There would be no doubt of the course of action if this were to occur at a movie theatre, hotel, restaurant or any other service establishment.

A guest of a guest in a park does not abide by the park rules and the police are called. There is confusion when the police arrive, because the law is unclear when it comes to trespass and RV parks. Law enforcement in the field is uncertain of their ability to act under the Penal Code or consider this a civil issue for a JP to resolve. Again, there would



be no doubt of the course of action if this occurred at a movie theatre, hotel, restaurant or other service related business.

2. A potential guest is refused service on the basis that he does not meet the park's criteria for service. Just like restaurants post "no shirt-no shoes-no service," RV parks have posted and published service criteria. Service may be refused to old RVs that do not bear the Recreational Vehicle Industry Association (RVIA) seal for UL safety approval or possess proper service hookups / safety items. In other instances, potential guests may show up with more people in their party than were pre-registered or allowed on an individual site. Ultimately, the potential guest refuses to leave, and the police are called. There is confusion when the police arrive, because the law is unclear when it comes to trespass and RV parks. Law enforcement in the field is uncertain of their ability to act under the Penal Code or consider this a civil issue for a JP to resolve.

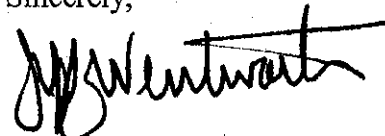
Adding RV parks / campgrounds to the statute will not guarantee police action (any more than adding RV Parks to the Theft of Services law guaranteed police action). but it gives law enforcement personnel in the field some clarity (and their advisors - like DAs) a clear authority to act upon, if they so desire.

As you are aware the Governor vetoed the two bills noting that "*the current statute covers the places identified in these bills, which renders this legislation redundant.*"¹ Further recent conversations between the Texas Association of Campground Owners representatives (requestors of the change in statute) and the Governor's office resulted in the Governor's office believing the statutory language, especially Section 30.05 (a), A person commits an offense if he enters or remains on or in *property*, including an aircraft or other vehicle, of another without effective consent or he enters or remains in a building of another without effective consent....." (emphasis added) already covers any entity or property.

I request a formal opinion from your office to render whether or not the current Texas Penal Code Section 30.05 covers the places identified in the two bills, per the Governor's office opinion, or whether or not the current Texas Penal Code Section 30.05 is clear or unclear as to how local law enforcement can enforce the statute as it relates to RV Parks or similar entities.

Thank you for your time and attention in this matter.

Sincerely,



Jeff Wentworth

¹ Gov. Perry Releases List of Vetoes, press release and support documentation, June 15, 2007.
www.governor.state.tx.us