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Workplace Gun Laws Result in Compliance and Safety Concerns for Employers

Against a backdrop of recent shooting tragedies in San Bernardino and Colorado Springs and contentious debates on gun control, states continue to pass legislation that increases protections for gun owners. Now more than ever, businesses are challenged to comply with laws that limit how employers can regulate firearms on public or private property, while still maintaining a safe working environment.

‘Parking Lot’ Laws

During the last several years, more than 20 states, including Illinois, Kansas, Missouri, Nebraska, Oklahoma and Texas, have enacted “Parking Lot” or “Guns in Trunks” laws. The primary intent of the laws is the same: Employers may not prohibit an employee from legally possessing a firearm in his or her vehicle in an employer-owned parking lot. Many of these laws not only prohibit a ban on firearms in company parking lots, but also make it illegal for an employer to discipline or discharge an employee for possessing a firearm in his or her vehicle.

Most recently, Tennessee amended its “Parking Lot” law to prohibit discrimination against employees who possess firearms in their vehicles on company property. Specifically, the new law provides that “[n]o employer shall discharge or take any adverse employment action against an employee solely for transporting or storing a firearm or firearm ammunition in an employer parking area.” Tenn. Code. Ann. § 50-1-312.

Other states continue to follow suit. A bill recently introduced in the Ohio Legislature would prohibit an employer from discriminating against an employee who stores a firearm in his or her locked vehicle.

What This Means to You

Because federal law generally does not regulate firearms in the workplace, employers must know whether they operate in a state that has a workplace gun law and whether any specific requirements or exceptions apply to their business. Those requirements and/or exceptions may include:

Increased liability. Can an employer be liable for failing to provide a safe workplace because an employee has a firearm in his or her vehicle? Some workplace gun laws may include a “safe harbor” provision against liability. Safe harbor provisions notwithstanding, the federal Occupational Safety and Health Act (OSHA) requires employers to provide a workplace free from hazards or conditions that may cause death or serious physical harm to employees. If an employer becomes aware that the potential for workplace violence exists, the employer is deemed to be on notice of that risk and must take reasonable steps to prevent it. Moreover, in light of recently expanded standards related to “joint employment” under the National Labor Relations Act, OSHA is likely to expand liability for “controlling employers” who in reality have minimal control, if any, over workplace safety.

Company vehicles. Are employees permitted to possess firearms in company vehicles or vehicles used for company business? While most states permit employers to prohibit firearms in company-owned vehicles, the laws vary when it comes to employee-owned vehicles that are used for company business.

Secured parking areas: Do “Parking Lot” laws similarly apply if an employer maintains a secured parking facility not accessible to the public? Exceptions in a few states allow employers to prohibit an employee from storing a firearm in the employee’s vehicle in a secured employer parking lot.

Firearms inside the workplace. Is specific signage required to legally prohibit employees, or others, from bringing a firearm into the employer’s business? Several states have specific and conspicuous posting requirements to prohibit licensed firearm owners from bringing a concealed weapon onto the employer’s premises.

Again, these issues vary depending on where you are and the circumstances specific to your business.

Contact Us

For more information on these laws, contact one of Husch Blackwell’s Labor & Employment attorneys or join us for our February 3 webinar on “Safety vs. Gun Rights in the Workplace.”