



Texas's Open Carry Laws Spur Resistance

News

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Art Lambert was quoted in *Bloomberg BNA* on January 19, 2016. The article "Texas's Open Carry Laws Spur Resistance" discussed a new law allowing Texans to carry handguns openly is fraught with ambiguity and provokes liability concerns in the workplace.

Businesses are concerned about lingering questions on the liability issues regarding banning handguns, said Art. These include whether they will be responsible for monitoring everyone on the premises and the extent of liability should an incident occur.

"The Open Carry Law is a new law without a lot of trimmings or clarifications so the answer to these questions will depend on how the courts treat them as they come up," Lambert told Bloomberg BNA in an e-mail.

"Liability will likely depend on whether the employer could reasonably foresee this situation occurring," he said.

Commenting on the implications for the workplace, Lambert said a third-party or employee could sue the employer for any harm from a gun-related incident at the workplace. The company's liability exposure "would probably not be greatly different" than it was before the law was passed, he said.

"From another angle, liability issues are probably the same if an employer allows Open Carry and an employee or third party gets shot on the premises," said Art. "One significant omission from the new Open Carry Law is that it does not grant employers immunity from civil actions resulting from an occurrence involving the employee and his or her openly carried firearm."

The 2011 Texas concealed handgun law expressly includes a provision providing employers with such immunity, except in cases of gross negligence, he said.

"That immunity, however, applied only to firearms and ammunition stored or transported in an employee's vehicle and did not address an occurrence involving an employee who is openly carrying a firearm," Art said.

"My recommendation is that the proper signage be used and that businesses amend their policies to make it clear what the company expects from its employees and what to do if an employee sees a

violation of this policy, e.g. call a manager and do not handle on their own. This will create a consistent response which is always the most prudent thing to do,” Art said.

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