

Workplace Discrimination and Gun Rights: The Confluence of Two Hot Button Issues in Pennsylvania

Insights

3.10.17

On January 23, 2017, a noteworthy and interesting bill was introduced in the Pennsylvania General Assembly. House Bill 38, which was introduced and sponsored by fifteen (15) State Representatives, is aimed at expanding the scope of the Pennsylvania Human Relations Act ("PHRA") to preclude and protect individuals from workplace discrimination stemming from the lawful ownership, use, possession, transportation and storage of a firearm. In substance, the PHRA is a Pennsylvania state law that bars workplace discrimination based on various protected classifications such as race, color, gender, national origin, age and a physical or mental disability. Under the PHRA, an individual who has been subject to workplace discrimination due to one of the enumerated protected classification has the right to file a lawsuit against his or her current or former employer seeking to recover various damages including back wages, emotional distress and attorneys' fees. Like employers in many states, Pennsylvania employers, regardless of merit, have seen an ever increasing number of employment discrimination lawsuit filed by current and former employees.



If enacted, House Bill 38 would expand the number of protected classifications under the PHRA to include the "exercise of self-defense rights." Within the proposed legislation, the term "exercise of self-defense rights" is defined to include the lawful ownership, use, possession, transportation and storage of a firearm. As this language should make clear, the intent of House Bill 38, if enacted into law, would be to bar employers from taking an adverse action against an employee for exercising various rights relating to the lawful ownership of a firearm and to provide employees who have been subject to such an adverse action a right to file and pursue a discrimination lawsuit. The Bill, however, has not yet been passed or even subject to a floor vote, but instead was referred to a committee for further consideration. Right now it is less than clear if House Bill 38 will make it out of committee and either be subject to a vote or enacted into laws.

Regardless of whether the Bill is passed and goes into law, it represents an interesting confluence of two hot button issues, gun rights and workplace discrimination, that are not typically associated with one another. The exercise of an individual's right to lawfully own a firearm is not what many people would consider a traditional protected classification for purposes of workplace discrimination laws. Through the introduction of House Bill 38, however, the Pennsylvania General Assembly, or at least certain members of the General Assembly, has decided that these issues should be addressed together through a potential expansion of the PHRA. Pennsylvania Employers should carefully monitor House Bill 38, and other pieces of legislation aimed at expanding the PHRA to include additional protected classifications, to ensure they avoid making an employment decision based on a new protected classification under the PHRA. Failing to stay apprised of these types of developments could result in an employer finding itself ensnared in costly and protracted litigation.