



Georgia Enacts New Gun Law: All Employers Affected

Insights

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After years of lobbying by gun rights groups in its favor, and by business associations in opposition, Georgia Gov. Sonny Perdue signed the "Business Security and Employee Privacy Act" on May 14. This Act expands the areas in which holders of firearm licenses may legally carry concealed weapons – and places some limitations on employers' rights.

The Act's Provisions

Effective July 1, 2008, properly licensed Georgia gun owners may carry a concealed weapon into restaurants that serve alcohol, but only those which derive 50% or more of their food and beverage sales from prepared meals or food. But while they may bring weapons into alcohol-serving restaurants, it is a misdemeanor for carriers of concealed weapons to consume alcohol. Patrons may not carry concealed weapons into an alcohol-serving establishment that derives less than 50% of its sales from food, i.e., a bar.

Licensed owners may also carry concealed weapons on public transportation and in state parks, historic sites, recreational areas, and wildlife management areas. Prior to the effective date of the Act, it was a misdemeanor for licensed gun owners to carry concealed weapons in these places or in a restaurant that serves any alcohol.

The Act also makes it unlawful for employers to establish rules that allow them to search employees' cars or to condition employment on an agreement by an employee not to store a licensed firearm in their locked vehicle. The good news for employers is that the exceptions appear to swallow the rule.

The new law applies to both the public and private sector, but excludes some employers, including: most correctional institutions; facilities associated with electricity generation that are owned or operated by a public entity; U.S. Department of Defense contractors whose facilities are contiguous with military installations, or are within one mile of an airport; natural gas and liquid petroleum transmission facilities; and water storage and supply facilities. In addition, an employer that has a secure parking lot that restricts public access by means of a gate, security guard, or other similar means may search vehicles, so long as searches are done on a uniform and frequent basis.

The Act also restricts the carrying of a weapon in a vehicle to the employee's *own* car, truck or motorcycle. The new law does not give employees who drive company vehicles the right to maintain

a firearm in their employer's vehicle. Finally, an employer may restrict an employee from possessing a firearm on the employer's property due to a completed or pending disciplinary action.

Important Exceptions

But the seemingly broad limitation on an employer's right to regulate firearm possession on its own property loses most of its bite based on a provision of the law that protects the rights of property owners. It states:

Nothing in this Code section shall restrict the rights of private property owners or person[s] in legal control of property through a lease, a rental agreement, a contract, or any other agreement to control access to such property. When a private property owner or person in legal control of property through a lease, rental agreement, a contract, or any other agreement is also an employer, his or her rights as a private property owner or person in legal control of property shall govern.

Earlier versions of the legislation did not contain this protection for employers' property rights and would have amounted to a blanket prohibition on applying "No Weapons" policies in company parking lots. Laws without property-owner protections have passed in several states, most recently in Florida. It is unclear from the language of the bill whether the protection of property owners' rights extends to the owners of alcohol-serving restaurants.

Steps Georgia Employers Should Take

The property-owner protection section appears to give employers significant leeway in promulgating and enforcing "No Weapons" policies. This is an important time to review your policies to ensure that you are adequately protecting your rights as an employer/property owner and providing your employees a safe workplace.

In addition to the provision protecting property owners, business associations also secured a compromise "immunity" provision for employers. Although this part of the new law is vague and poorly worded, it provides that the law does not create any new duties nor expand any existing duty of care on the part of property owners and employers. It remains to be seen how effective the immunity provision will be in shielding employers from liability.

For advice, assistance or more information, call any attorney in the Atlanta office of our firm at 404.231.1400

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