



Indiana Further Limits Employers With Respect to Guns and Ammo

Insights

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On April 18, 2011, Indiana Governor Mitch Daniels signed a new law clarifying and bolstering employees' and applicants' right to lawfully possess firearms and ammunition. The law takes effect July 1, 2011.

The new law prohibits employers from: 1) requiring applicants or employees to disclose information about whether they own, possess, use, or transport firearms or ammunition, unless the disclosure concerns the possession, use, or transportation of a firearm or ammunition that is used in fulfilling the duties of the employment of the individual; or 2) conditioning employment, or any employment opportunities or benefits, upon an agreement that applicants or employees forego their rights under the law, or upon any otherwise lawful ownership, possession, storage, transportation, or use of a firearm or ammunition.

In simple terms, this law makes a person's "gun status" somewhat akin to a protected category under the civil rights laws. In fact, it will function much like the Genetic Information Non-Discrimination Act. The new law will prohibit all Indiana employers from asking employees and applicants questions to determine whether they own, use, possess or transport guns or ammo, and will prohibit employment discrimination based on an individual's "gun status." The law specifically prohibits parking discrimination based on "gun status." The only exception to these rules arises where the duties of the employment position require the possession or use of guns and ammo, as may be the case in security positions.

An aggrieved party may sue an employer for violating the law. Employers who violate the law may be required to pay actual damages, legal costs and attorneys' fees, and even punitive damages in cases involving a willful violation.

This legislation is a follow-up to last year's "parking lot" law, which made it unlawful for Indiana employers to adopt or enforce any policy or rule prohibiting employees from lawfully possessing firearms or ammunition in their locked vehicles on their employer's property. According to supporters of the new law, some employers responded to that law by requiring employees to disclose whether they own, possess or transport a gun, and by discriminating against such employees by requiring them to park off site. Such policies and practices will be unlawful under this new law and must be eliminated.

Thus, Indiana employers will soon have to refrain from asking most applicants or employees any questions that may reveal their "gun status" and refrain from using "gun information," no matter how obtained (e.g., volunteered by the employee), as a basis for an employment decision. You may still prohibit your employees from carrying guns while performing their duties or on company property, provided you do not prohibit them from keeping lawfully possessed guns out of sight in their locked vehicles.

We suggest that all Indiana employers review their policies and handbooks to ensure that they are in compliance with this new law.

For more information contact your regular Fisher Phillips attorney.

This Legal Alert provides an overview of a specific state law. It is not intended to be, and should not be construed as, legal advice for any particular fact situation.