



## Legal Alert: Florida Governor Signs “Bring Your Guns to Work” Law

4/17/2008

Florida Governor Charlie Crist has signed the “bring your guns to work” bill, which makes it illegal for public and private employers to have policies prohibiting firearms on their private property. Specifically, the law permits employees who have concealed weapons permits to keep firearms locked in their vehicles on company property. Additionally, the law permits customers or other “invitees” of a business to have firearms locked in their vehicles in the business’ parking lot, regardless of whether they have a concealed weapons permit.

Under the law, which takes effect July 1, 2008, employers may not:

- Prohibit employees, customers, or invitees from keeping a firearm locked in their vehicle on company property;
- Ask an employee, customer, or invitee about the presence of a firearm in the person’s vehicle on company property;
- Search a vehicle on company property to ascertain the presence of a firearm in the vehicle (the law provides that a search of a vehicle to ascertain the presence of a firearm may only be conducted by on-duty law enforcement personnel, based upon due process and must comply with constitutional protections);
- Take any action against an employee, customer or invitee based on statements concerning the presence of a firearm in a vehicle on company property;
- Condition employment on whether an individual holds a concealed weapons permit;
- Condition employment on an agreement that prohibits the employee from keeping a firearm locked in a vehicle on company property;
- Prohibit employees, customers or invitees from entering the company parking lot if the person’s vehicle contains a firearm that is out of sight in the vehicle.

Additionally, the law prohibits employers from terminating or otherwise discriminating against an employee or expelling a customer or invitee “for exercising his or her constitutional right to keep and bear arms or for exercising the right of self-defense as long as a firearm is never exhibited on company property for any reason other than lawful defensive purposes.”

**Exceptions:** The law does not apply to:

- Schools;
- Correctional institutions;
- Nuclear power plants;
- Property upon which substantial activities involving national defense, aerospace, or homeland security are conducted;
- Property upon which the primary business conducted is the manufacture, use, storage, or transportation of combustible or explosive materials regulated under state or federal law, or importing, manufacturing, or dealing in explosive materials;
- A motor vehicle owned, leased, or rented by a public or private employer or the landlord of a public or private employer;
- Property upon which possession of a firearm or other legal product by a customer, employee, or invitee is prohibited pursuant to any federal law, contract with a federal government entity, or general law of Florida.

**Enforcement:** An individual “aggrieved under this act” may bring a civil action for violation of rights protected by the act. If this action is successful, the individual may recover “all reasonable personal costs and losses suffered” as a result of the violation of rights under the act. The law also permits the prevailing party in a civil action under the law to recover court costs and attorney fees.

Additionally, the Attorney General is charged with enforcement of the law. If there is reasonable cause to believe that an individual’s rights under the act have been violated, the Attorney General may bring a civil or administrative action for damages, injunctive relief and civil penalties, and such other relief as may be appropriate.

**Immunity:** The law states that it does not create a duty of care on behalf of an employer with regard to the prohibitions of the act. Additionally, the law provides that an employer “is not liable in a civil action based on actions or inactions taken in compliance with” the law. This immunity does not apply to civil actions based on an employer’s acts that are unrelated to compliance with the law.

**Employers’ Bottom Line:**

Business groups, including the Florida Chamber of Commerce and Florida Retail Federation have opposed this legislation and may challenge it in court. However, employers should review any workplace policies relating to the possession of firearms on company property to ensure they comply with the law, prior to July 1, 2008.

If you have any questions regarding the law or other labor or employment related issues, please contact the Ford & Harrison attorney with whom you usually work, or Edmund McKenna, a partner in our Tampa office, at [emckenna@fordharrison.com](mailto:emckenna@fordharrison.com) or 813-261-7821.