

FRANCZEKRADELET

ATTORNEYS & COUNSELORS

Illinois Hotel & Lodging Association

Illinois Concealed Carry Law

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Today's Agenda

- **Concealed Carry:** How will new gun laws impact the workplace?



How New Gun Rules May Impact the Workplace



- 78% Violent Workplace Crimes = Gun-Related
- 90% Americans Drive to Work – $\frac{3}{4}$ Alone

Why Allowing Guns Everywhere?

- Recent court rulings
 - 2nd Amendment protects individuals' right to have a firearm outside the home
 - Preclude local government bans
- All 50 states passed “concealed carry” laws:
 - Some: Constitutional right - few limitations
 - Others: Have to show “good cause” to carry
 - Most: Modest hurdles (license process)
- Illinois = last state, but still unanswered questions for employers

New Illinois Law – January 1, 2014

- *Illinois Firearm Concealed Carry Act (FCCA)*
 - If obtain a license, individuals can carry a firearm in a concealed manner
 - Firearm = handgun (not Taser, stun gun, machine gun, rifle)
 - Fully “loaded”
- “Concealed” = carried by a person hidden from view of the public or on or about a person within a vehicle

Illinois Law – License Process

- Need a license -- who can get one?
 - 21 years old
 - Possess valid FOID card
 - Not a threat:
 - CCL Review Board created to decide whether applicant poses danger to self/others/ public safety
 - Criminal convictions for threatening behavior
- Application Process -- just started
 - 400,000 Applicants Expected



Illinois Law – Prohibited Areas

- Where are concealed firearms allowed?
 - Statutorily Prohibited Areas
 - Other Prohibited Areas
 - Parking Lot Exception

Illinois Law – Statutorily Prohibited Areas

- Public Transportation
- Government Buildings
- Schools and Child Care Facilities
- Colleges and Universities
- Hospitals/Mental Health Facilities/Nursing Homes
- Gaming Facilities
- Business Serving Alcohol (50% or more of revenue)
- Stadiums and Amusement Parks
- Airports, Zoos, Libraries, Museums
- Nuclear Energy Sites

Must Post Signs

- Private Property Owners = Employers

“The owner of private real property of any type may prohibit the carrying of concealed firearms on the property under his or her control.”

Must Post Signs

Illinois Law – Parking Lot Exception

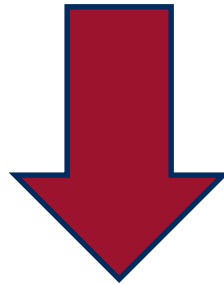
- Licensees entitled to:
 - Carry concealed firearm within “a vehicle”
 - Store firearm in a locked vehicle/container out of plain view within the vehicle
 - Carry firearm in “the immediate area surrounding his or her vehicle” to store or retrieve it within the trunk
 - Must be unloaded before exiting the vehicle



Impact on Employers

- Primary Goal: protect employees/patrons
- How?

Decide whether your business will
ban or place restrictions on firearms



Consider your posting
obligations and policy options

Impact on Employers

- Questions abound:
 - Can we limit employees from carrying concealed firearms in the workplace? Guests? What if we don't own the property?
 - Parking lots: can we prohibit employees/customers from storing guns in their vehicle? Designate some lots as “gun free”?
 - Are employees entitled to carry a gun when using employer-owned vehicles or working off property?
 - Should we require employees to disclose they carry firearm?
 - If we employ people in multiple states, what do we do?

Firearms at Work

- Some Clear Answers:
 - All employers remain free to bar firearms in the workplace
 - MUST post a sign at “entrance”
 - Applies to employees and guests
 - Posting: at least 4” x 6” sign “clearly and conspicuously” (Larger size/additional wording = okay)
 - “Prohibited areas” must post sign
 - Leased property – arrange with landlord



Employer Parking Lots

- Parking lots – clear but confusing
 - Cannot stop anyone from storing guns in their own vehicle – even on property employer owns
 - Why?
 - Parking Lots = clash of conflicting safety concerns
 - Person’s car = 2nd Amendment right to protect self
 - On your property = want to protect all employees
 - “Balance” decided in favor of 2nd Amendment right
 - College and University Exception: allowed to “designate” specific lots allowing guns (recommend customized signage)

Impact on Employers

- Unanswered Issues:
 1. Firearms in employer-owned vehicles?
 - Colleges/Universities can prohibit
 2. Employees carrying firearms when working off property?
 3. Require employees to disclose they carry firearm?



Illinois Employer Considerations

- Illinois = 50th state to enact law, but did not address these issues
 - Governor’s private employer suggestions rejected
 - Adopted provisions that may limit employer discretion:
 - College and university exceptions imply “no” for other employers (employee-owned vehicles, designated parking lots)?
 - License information = Confidential

Consequence for Employer Violations?

- Illinois Statutory Penalties
 - Criminal
 - Focused on concealed carry licensee
- No rules about employer violations
 - Implied private right of action?
 - Retaliatory discharge – “public policy”?
 - Illinois Workplace Privacy Act?
- Politicized issue – could fund litigation

What Should Employers Do?

- “Unanswered” questions:
 - Carefully consider specific roles of employees in your business and risks – decide whether to allow firearms
 - 1) In employer-owned vehicles or
 - 2) Off your premises
 - Recommend not gathering license data about employees
- Multi-state employers:
 - 1) Carefully consider each state law and
 - 2) Make rules as consistent as possible

Employer Policy Considerations

- Policies: revise existing rules addressing weapons in the workplace – have options
 - Prohibit weapons in the workplace and generally refer to need to comply with state law
 - Consider more specifically addressing various issues?
 - Designated parking lots
 - Employer owned vehicles
 - Carrying firearms while working away from office/plant
 - Employee license disclosure
- Educate/train managers and supervisors