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New Alabama Law Permits Employees to Have Guns in Vehicles on Employer Property

Starting on August 1, 2013, Alabama employees have the right to lawfully possess guns in their vehicles on company property. Although employers may still prohibit guns in the workplace and prohibit workplace violence, employers may no longer have a blanket prohibition on all guns on their property.

According to new amendments to Section 40-12-143 of the Alabama Code made by Senate Bill 286, an employee may bring a gun to work in a vehicle if he or she (1) drives or parks in the parking lot or other place where employee vehicles are allowed; (2) hides guns from ordinary view and locks them up when the vehicle is unattended; and (3) has a valid concealed weapon permit or a valid hunting license and meets other requirements for possessing hunting firearms during hunting season only.

Limitations Based on Risk of Harm

If an employer believes that an employee presents a risk of harm to him or herself or others, then it may lawfully ask whether the employee has a firearm in his or her vehicle. If an employee does have a firearm in his or her vehicle, then the employer may make any inquiry to determine whether the employee meets all of the law's requirements. For example, an employer may prohibit an employee who does not have a concealed weapon permit from having a hunting firearm if the employee has documented incidents of workplace threats or violence, mental health issues, violent criminal conviction, or a domestic violence order. If the employee fails to comply with the law's requirements, then the employer may discipline or take other employment action against that employee.

As always, employers may report potential criminal activity to law enforcement. For example, an employer may report an employee's threats to harm him or herself or others, or that the employee's vehicle contains an illegal firearm, stolen property, or other illegal items. If law enforcement officers discover illegal items in an employee's vehicle, then the employer may discipline or take other employment action against that employee.

However, an employer may not discipline or terminate an employee based solely on the presence of the firearm, if an employee is in compliance with the law's requirements regarding gun possession in his or her vehicle. After a forty-five (45) day demand period following discipline or termination, an employee may sue his or her employer to recover compensation for lost wages, benefits, or other damages to enforce this provision.

Further Limitations at Certain Healthcare and Other Sensitive Facilities

Despite the law's new rights to lawfully possess guns, certain healthcare facilities may be able to prohibit individuals from possessing firearms inside and on their premises, even persons with lawful concealed pistol permits. The Act prohibits knowingly possessing or carrying a firearm inside or on the premises of facilities providing inpatient or custodial care of those with psychiatric, mental, or emotional disorders. This provision also applies inside and on the premises of jails and prisons, and inside courthouses and police stations. Facilities covered by this provision must place a notice at the public entrance of such premises or buildings alerting those entering that firearms are prohibited. A violation of this provision is a Class C misdemeanor.

New Protections for Employers

The new law provides employers with immunity from liability for damages relating to a firearm brought onto their property, as long as the employer does not commit an affirmative wrongful act that causes harm to another. Employers have no duty to patrol or inspect employee parking areas, or to investigate whether an employee meets requirements for possessing a firearm in his or her vehicle. Also, the presence of a firearm on the employer's property does not constitute a failure to maintain a safe workplace.

Finally, Alabama's self-defense law, AL 13A-3-23, will be amended as of August 1, to permit owners and employees to use deadly force in self-defense or the defense of another during an attempted or actual serious crime when the business is closed. This includes crimes involving death, serious physical injury, robbery, kidnapping, rape, sodomy, or a crime of a sexual nature involving a child under the age of 12.

In conclusion, employers should consult an attorney about integrating the new law's provisions into any existing workplace safety policy. It is also advisable to consult with attorneys before an employer makes inquiries into an employee's possession of a gun in his or her vehicle. At the same time, employers will receive some new protections from liability for guns in their parking lots and to use deadly force in defense of themselves or others.

For more information on how this law affects your business contact Angie C. Cameron or Sarah C. Blutter at Johnston Barton Proctor & Rose LLP.
