



One Minute Memo[®]

New Law Entitles Texas Employees to Store Firearms in Private Vehicles on Employers' Property

On June 17, 2011, Texas Governor Rick Perry signed Senate Bill 321, which will allow many Texas employees who legally possess firearms or ammunition to store those firearms or ammunition in their locked, privately-owned vehicles in employer-provided parking areas. Specifically, under this new law, employers may not prohibit their employees from storing firearms and ammunition in their locked vehicles, as long as the employees lawfully possess these items — and a concealed handgun license is not required. The new law will take effect on September 1, 2011.

Senate Bill 321 includes some important exceptions, however. First, the new law will not apply where state or federal law prohibits the possession of a firearm or ammunition on the property. Second, the law will not apply to vehicles owned or leased by the employer that the employee uses in the scope of his employment, unless the employee's job duties require him to transport or store a firearm. Third, if the property is owned or controlled by a person other than the employer, and is subject to a valid, unexpired oil, gas, or other mineral lease that contains a provision prohibiting the possession of firearms on the property, the new law will not apply. Also exempt are employers that are school districts, open enrollment charter schools, or private schools. Finally, there is a limited exception for property owned or leased by a chemical manufacturer or oil and gas refiner permitted by Texas Commission on Environmental Quality and on which the primary business conducted is the manufacture, use, storage or transportation of hazardous, combustible, or explosive materials; in that case, employees who possess a concealed handgun license cannot be prohibited from storing firearms or ammunition in a privately-owned, locked vehicle in employer-provided parking areas which are outside a secured and restricted area that contains the physical plant: 1) that is not open to the public and 2) the access to which is constantly monitored by security personnel.

Importantly, under Senate Bill 321, employers still may prohibit employees from bringing a firearm onto the employer's premises, even if the employee has a concealed handgun license; the new law will only apply to parking areas such as garages and parking lots. Further, the employer, and the employer's agents, officers, directors, and employees, will not be liable for injury, death, or damages involving firearms or ammunition that the employer is required to allow in the parking area, absent gross negligence. Employers are not obligated to patrol, inspect, or secure the parking area, nor do they have to investigate, confirm, or determine employees' compliance with laws regarding possession, transportation, or storage of firearms or ammunition.

Notably, the new law does not contain any enforcement provisions. Accordingly, it is unclear what punishment an employer could face if it continues to prohibit possession of firearms or ammunition in parking areas. Even so, in light of this new

law, any employer with a physical presence in Texas should consider whether any of the law's exceptions apply to it. If no exception applies, the employer should review its existing policies regarding firearms and ammunition to determine whether they prohibit employees from storing lawfully possessed firearms and ammunition in locked vehicles in employer-provided parking lots and garages. Next, in revising its policies and procedures to comply with the law, the employer should also consider making additional revisions so that: 1) the employer still may take action if the firearms or ammunition are not lawfully possessed or are stored in unlocked vehicles; and 2) it can still prohibit employees from bringing firearms or ammunition beyond the parking area and into the workplace. As a practical matter, employers may also consider whether additional security measures are appropriate, though they are not required by the new law.

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