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News & Types: Employment, Labor & Benefits Update

Illinois Enacts Concealed Carry Employment Policies

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Practices: Employment, Labor & Benefits

Now that Illinois has enacted a concealed carry law, a number of clients have asked for policies regarding their employees and visitors, including suppliers, vendors and customers. Companies are concerned about the threat of violence and preventing violent actions in the workplace. Therefore, many of these companies already have policies prohibiting violence in the workplace. These policies include prohibitions on the possession of all weapons in the workplace, at company-sponsored events and when employees are performing job-related duties. With the new law, the challenge is complying with the employees' and visitors' rights to carry a concealed weapon and the company's need to balance that right with the need for the security and safety of its employees.

Employers have an absolute right to have a written policy preventing violence in the workplace and restricting the right of employees to carry weapons in compliance with the new law. First, companies should review the policies they currently have regarding violence in the workplace. Companies should then revise the current language regarding weapons, and refer to a separate concealed carry policy, or add a section on concealed carry.

Second, many policies include a statement of the purpose – to balance the seemingly contradictory goals, needs and rights of the employees, non-employee visitors and the company. Regarding the policy itself, companies, employees and non-employee visitors need to understand that the concealed carry law does not allow individuals to carry every type of weapon, either concealed or not concealed. Instead, the law requires individuals to obtain licenses and licenses for only certain types of weapons. Companies may prohibit employees and visitors from possessing, using, selling and distributing any and all weapons not covered by the law. In addition, a company has the right to post a sign at the entrance of its building prohibiting those who enter from carrying weapons defined by the law.

The law does allow individuals to possess and carry certain types of weapons in parking lots; however, the law requires individuals to store and lock the licensed weapons in specified ways. A policy may include language requiring employees and visitors to comply with this portion of the law. Regarding vehicles, although the law allows individuals to possess certain types of concealed weapons in vehicles, one interesting question is whether an employee using a company-owned or the employee's own vehicle may be prohibited from possessing those types of concealed weapons while performing company business. One argument is that a company-owned vehicle and the employee's own vehicle while the employee is performing company work are the same as the company's "building." However, there is no clear answer and companies may have to wait for

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the Illinois State Department of Police, which may or may not address this issue when it issues its rules regarding licenses and the sign.

Another interesting issue is the employee's potential claims against an employer, if the company has a policy that does not comply with the law, or if the company disciplines or terminates an employee for violating a policy that does not comply with the law. One may argue that the termination violates the public policy of the state and, therefore, the termination is a wrongful termination. Others may argue that the concealed carry law is outweighed by the company's obligations to ensure the safety of its employees and to meet its duty not to negligently supervise its employees and visitors. In the meantime, employment lawyers and consultants are recommending that companies seek legal advice regarding their policies and the implementation of the new law.

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