



FOLEY & LARDNER LLP

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Legal News: Labor & Employment is part of our ongoing commitment to providing up-to-the minute information about pressing concerns or industry issues affecting our clients and our colleagues.

If you would like more information about the law and its potential impact, please contact one of Foley's Labor & Employment attorneys listed below:

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“Bring Your Gun to Work” Law Moves Through Florida Legislature

This week, the Florida House of Representatives passed the Preservation and Protection of the Right to Keep and Bear Arms in Motor Vehicles Act of 2008, commonly known as the “Bring Your Gun to Work” law. If this bill passes the Florida Senate and is signed into law by Governor Charlie Crist, it could have a profound effect on workplaces across Florida.

The bill prohibits employers from banning guns on their premises, so long as customers and employees who bring weapons to the workplace have a concealed weapons license and leave the guns locked in their cars. Furthermore, an employer will be prohibited from inspecting a vehicle or making any written or verbal inquiry regarding the presence of a firearm inside the vehicle. The law also prohibits an employer from refusing to hire someone because he or she has a concealed weapons license; preventing someone from entering the employer's property because he or she has a concealed weapons license; or terminating someone's employment because he or she has a concealed weapons license. Schools, jails, and nuclear-powered facilities are exempt from the law.

Individuals who believe their rights under this law have been violated could bring a civil lawsuit and may be awarded costs and attorneys' fees. In addition, the Florida Attorney General can bring administrative and judicial enforcement actions against offending employers.

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Businesses were given one small concession in that they were provided immunity from lawsuits in the event that a shooting takes place on their property. However, that may be the least of employers' problems if they are faced with a fearful workforce or, worse yet, the aftermath that follows a workplace shooting.

The National Rifle Association has been lobbying actively for this type of this legislation as part of its national agenda, selecting key states viewed as "pro-gun." Oklahoma has enacted similar legislation; however, enforcement was enjoined by a federal court ruling in November 2007, which held that the state law was preempted by the federal Occupational Safety and Health Act (OSHA).

Passage of this law will present Florida employers with some unique challenges. First, employers will have to rewrite existing policies to ensure compliance with the new law. Second, given the obligation under OSHA to provide a "safe workplace," employers must consider what type of training, if any, is necessary to ensure that gun-related violence does not occur. Finally, employers will have to develop a response plan in the event gun violence occurs.

The Florida bill now goes to the Florida Senate, where pundits predict it has a good chance of passage. Governor Crist has not indicated his views on this law, so it is difficult to predict whether he would sign or veto it. Concerned employers who wish to take a position should contact their state representatives or senators, lobbyists, and trade associations.