

## Your Questions About Ohio's New Gun Law Answered

By Bill Nolan and Doug Oldham

On March 21, 2017, Ohio's new gun law went into effect. The new law grants concealed carry licensees the right to carry concealed firearms in more places, causing many business owners and employers to question how this law will affect guns at their businesses. This post answers some business owners' common questions and concerns.

**Q. Does "a person's privately owned vehicle" include ...**

- **A vehicle that is owned by the company?**
  - A. The prohibition portion of the new provision<sup>1</sup> -- R.C. 2923.126 – seems clearly not to include company-owned vehicles, and companies that choose to do so can continue to restrict the carrying of weapons in company-owned vehicles.
- **A semi truck/trailer owned by an owner/operator?**
  - A. This seems clearly to be a privately owned vehicle under the law, such that a concealed carry holder would have the rights provided by the statute in such a vehicle.
- **The employee's privately owned vehicle that he/she is required by the company to use for company business?**
  - A. The law does not make an exception for a privately owned vehicle that is required to be used on company business. Therefore, a concealed carry holder would have the rights provided under the law in such a vehicle.

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<sup>1</sup> (A) A business entity, property owner, or public or private employer may not establish, maintain, or enforce a policy or rule that prohibits or has the effect of prohibiting a person who has been issued a valid concealed handgun license from transporting or storing a firearm or ammunition when both of the following conditions are met:

(1) Each firearm and all of the ammunition remains inside the person's privately owned motor vehicle while the person is physically present inside the motor vehicle, or each firearm and all of the ammunition is locked within the trunk, glove box, or other enclosed compartment or container within or on the person's privately owned motor vehicle;

(2) The vehicle is in a location where it is otherwise permitted to be.

- **The employee's privately owned vehicle for which the company provides an automobile allowance?**
  - A. Again, the law does not suggest that such a privately owned vehicle would be treated any differently. An employee who is a concealed carry holder and drives such a vehicle would have the rights provided under the law.
- **A vehicle the employee is renting from a third party?**
- **A vehicle an employee is privately leasing?**
- **A vehicle an employee is leasing under a lease-to-purchase arrangement?**
  - A. It seems that a good test for what is “a person’s privately owned vehicle” is whether the person has title to the car. Clearly an employee would not hold title in the case of a short-term rental, e.g. from one of the large rental companies. Vehicle leasing arrangements can take many forms, and the proponents of the law may not have considered the many people who lease cars on long term leases, but the language of the law seems clear that it would not apply to vehicles to which the employee (or other person) in question does not hold title.

**Q. Can only handguns be kept in the vehicle, or can any type of weapon be kept?**

**A.** The law allows an individual meeting the statutory requirements to keep a “firearm or ammunition” in his/her vehicle. “Firearm” is defined in pertinent part by R.C. 2923.11(B)(1) as a “deadly weapon capable of expelling or propelling one or more projectiles by the action of an explosive or combustible propellant.” Therefore, it seems clear from the language of the law – whether this was intended by the drafters or not – that the right to keep a weapon in one’s vehicle is not limited to handguns even though it is holders of a handgun license who are protected by the law. (Other laws may regulate other types of firearms and how they can be stored.)

**Q. Can the firearm be loaded?**

**A.** The law does not distinguish between loaded or unloaded. Therefore, it appears that the firearm can be loaded.

**Q. Can an employer require that employees self-identify as having a valid concealed handgun license and provide a copy of the license?**

**A.** The law does not expressly prohibit an employer from doing this. The question for employer policies regulating such firearms is whether the policy has the “effect of prohibiting” concealed carry holders from storing firearms in their vehicles. It seems that an employer that

makes clear that it is gathering this information so that it may provide for all employees' safety while still complying with its obligations to concealed carry holders should not be found to be effectively prohibiting the lawful storage of firearms. However, people have strongly held feelings on this topic and employers should approach these questions cautiously in consultation with their counsel.

**Q. What does the immunity provision<sup>2</sup> mean for workers' compensation if an employee is injured by a weapon?**

**A.** The immunity provision applies to "civil actions." The term "civil action" is not defined in Chapter 2923 of the Ohio Revised Code, but it seems from its common meaning that it applies to lawsuits filed in court, and that the immunity provision would have no impact on workers' compensation claims.

**Q. Does the immunity provision apply to an employer if somebody is injured by a firearm of which the company was aware?**

**A.** It seems that the clear intent of the immunity provision is to protect an employer from a civil action arising from such an injury. Our potential concern is with the potential vagueness of terms in the immunity provision such as "resulting from," "arising from," and "involving." Is there a scenario where an employee injured by such a firearm (or frankly, the employee's estate if the employee is killed) could say that the injury did not completely "result" or "arise" from another person's action if the employer was aware of the weapon, and perhaps that an employee was "acting funny," and is alleged not to have properly protected its employees? While it would be an extreme situation, the statute does not seem to completely foreclose the possibility.

**Q. Does the new law address signage requirements?**

**A.** The legislation makes no changes with respect to signage other than to impose certain penalties on persons who violate a posted sign at a day care center. R.C. 2923.126(C)(3)(a) still allows most property owners to post a sign prohibiting the carrying of firearms on to the premises. Also, R.C. 2923.1212 requires certain entities to post signs, and is unchanged by the new law.

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<sup>2</sup> **(B)** No business entity, property owner, or public or private employer shall be held liable in any civil action for damages, injuries, or death resulting from or arising out of another person's actions involving a firearm or ammunition transported or stored pursuant to division (A) of this section including the theft of a firearm from an employee's or invitee's automobile, unless the business entity, property owner, or public or private employer intentionally solicited or procured the other person's injurious actions.



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