



## Texas Employees Allowed to Keep Guns Locked in Vehicles on Company Property

By: Locke Lord's Labor & Employment Practice Group

Governor Perry signed into law S.B. 321, which precludes Texas employers, both public and private, from prohibiting an employee from storing a lawfully possessed firearm and/or ammunition in his or her locked vehicle while parked in a parking lot, parking garage, or other parking area provided by the employer. To store a firearm in his or her vehicle, an employee must either be licensed to carry a concealed handgun, pursuant to Chapter 411 of the Texas Government Code, or otherwise lawfully possess a firearm. The terms "handgun" and "firearm" are left undefined by the new law. However, under the Texas Penal Code, a "firearm" is defined more broadly than handgun, and includes most any gun. Tex. Pen. Code § 46.01(3).

There are many exceptions to the general rule. Specifically, the new law does not apply to the following: (1) vehicles owned or leased by the employer even if used by an employee in the course and scope of employment; (2) vehicles located in parking lots of school districts, charter schools, and private schools; (3) property owned or controlled by a third party, other than the employer, that is subject to a valid mineral lease prohibiting the possession of firearms; and (4) any property where the possession of a firearm is otherwise prohibited by state or federal law.

Similarly, the law exempts from coverage property owned or leased by a chemical manufacturer or oil and gas refiner with an air authorization under Chapter 382, Health and Safety Code, and on which "the primary business conducted is the manufacture, use, storage or transport of hazardous, combustible or explosive material," unless the manufacturer or refiner provides a parking lot, parking garage, or other parking area that is outside of a secured and restricted area that contains a physical plant, is closed to the public, and the entrance to which is constantly monitored by security.

Employers are still allowed to prohibit employees from possessing firearms and/or ammunition on the employer's "premises." The term "premises" is defined by reference to the Texas Penal Code, and includes "a building or portion of a building[, but] does not encompass all of the employer's property, such as private or public driveways, streets, sidewalks, walkways, parking lots, parking garages, or other parking areas." Tex. Pen. Code § 46.035(f)(3). The new law applies to employees only, so an employer can prohibit visitors from storing firearms on the employer's premises. Likewise, employees visiting customer premises must abide by the customer's prohibitions, if any, against the storage or transportation of firearms by visitors.



Other than in a case of gross negligence, the new law provides immunity to an employer, and its principal, officer, director, employee, or agent, from liability in a civil action for personal injury, death, property damage, or any other damage resulting from an occurrence involving a firearm or ammunition that the employer is required to allow on its property. Moreover, the new law specifically states that employers do not have a duty to patrol, inspect or secure the parking lot, parking garage or other parking area provided by the employer or the privately-owned vehicles located in the aforementioned areas, or to investigate, confirm or determine an employee's compliance with laws related to the ownership or possession or transportation and storage of a firearm or ammunition.

The new law, however, does not provide immunity from personal liability to individuals who transport or store a firearm or ammunition without complying with the requirements of this new law, who cause harm or injury by using a firearm or ammunition, or who aid or encourage another to cause harm or injury using a firearm or ammunition.

Many employers have policies that prohibit employees from carrying or storing firearms on their property, including parking lots, which conflicts with this new law. Though the new law does not outline an enforcement mechanism, or establish any penalties for its violation, these employers should consider revising the language of their policies to prohibit firearms only to the extent allowed under this new law. At a minimum, employers should ensure that their management employees understand that any policy in conflict with this law can only be enforced to the extent it is consistent with this new law.

For more information on the matters discussed in this *Locke Lord QuickStudy*, please contact one of Locke Lord's [Labor & Employment Practice](#) attorneys.