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Labor and Employment Alert: Ohio's New Guns-In Trunks Law Limits Private Employers' Rights to Control Their Property

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Michael C. Griffaton

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Ohio law regulates the licensing and carrying of concealed handguns. The law currently allows private employers to prohibit or restrict the presence of firearms on their property. However, on December 8, 2016, the Ohio General Assembly passed Senate Bill 199 to allow gun owners to keep guns in their own cars while on their employer's property. Senate Bill 199 also expands the types of places into which concealed handguns would be permitted – including airports, institutions of higher education, and various government buildings. However, guns are still prohibited in the Ohio Statehouse. Governor Kasich signed Senate Bill 199 on December 19, and it will take effect in 90 days.

Current law permits a private employer (including private colleges and universities) to restrict or prohibit firearms on the employer's premises or property, including in motor vehicles the employer owns. Such employer is immune from liability in a civil action for any injury, death, or loss to person or property that allegedly was caused by or related to a person bringing a handgun onto the employer's premises or property, unless the private employer acted with malicious purpose. Also, that employer is immune from liability for any injury, death, or loss to person or property that allegedly was caused by or related to the private employer's decision to permit a licensee to bring, or prohibit a licensee from bringing, a handgun onto its premises or property.

Senate Bill 199 prohibits a business entity, property owner, or public or private employer from establishing, maintaining, or enforcing a policy that prohibits or has the effect of prohibiting a person with concealed handgun license from transporting or storing a firearm or ammunition when: (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 is locked within that vehicle's trunk, glove box, or other enclosed compartment or container; and (2) the vehicle is in a location where it is otherwise permitted to be. This means that an employer must now permit employees to keep their handguns in their cars when parked in the employer's parking lot or parking garage.

The bill provides the business entity, property owner, or public or private employer with immunity in civil actions for damages, injuries, or death resulting from or arising out of another person's actions involving a firearm or ammunition transported or stored, 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.

Currently, a person cannot bring a concealed handgun onto premises owned or leased by any public or private college, university, or other institution of higher education, unless the handgun is in a locked motor vehicle or the licensee is in the immediate process of placing the handgun in a locked motor vehicle. Senate Bill 199 permits the carrying of concealed handguns at institutions of higher education *if* the institution's board of trustees or other governing body adopts a written policy or rule authorizing specific individuals or classes of individuals to do so. As with a private employer's immunity for damages resulting from their employees' guns-in-trunks, institutions of higher education are similarly immune from liability injuries, deaths, or losses allegedly caused by or related to concealed handguns on campus or to the institution's decision to permit concealed handguns on campus.

Senate Bill 199 also allows individuals to carry a concealed handgun in any area of an airport, except areas of the airport passenger terminal that are beyond a passenger or property screening checkpoint or areas to which access is restricted through security measures by the airport authority or a public agency.

Finally, Senate Bill 199 allows the governing body with authority over a government building to enact a statute, ordinance, or policy that permits a licensee to carry a concealed handgun into the building. Certain government facilities, including courtrooms and prisons, are still off-limits.

Before the law becomes effective in March 2017, Ohio employers should review their employment policies and practices to ensure they comport with the law's new requirements. Contact your Vorys lawyer if you have questions about Ohio's concealed carry laws.