

# Gun Violence and Changing Laws: What Employers Need to Know

## Labor & Employment Law Update

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YouTube's experience on April 3, 2018, in which a non-employee with no direct link to the company entered the workplace and started shooting a firearm at employees, highlighted concern for an "active shooter" scenario in the workplace.

As a result of increased gun violence, state legislatures have been pushing gun control legislation, including laws that would ban bump stocks and high capacity magazines, raise the minimum age to buy a gun to 21, or even ban people from carrying, keeping, bearing, transporting or possessing an assault weapon. Some proposed legislation is not prohibitive, but rather increases the cost to sell guns by requiring a gun dealer licenses, requires certain security protections for gun shops, or increases the waiting time for semi-automatic firearms.

For the most part these proposed laws and ordinances regulate an individual's access to guns and do not directly change or impact the employer-employee relationship. However many state laws regarding concealed and/or open carry of firearms in public do implicate employer and employee rights regarding firearms. Many of these laws allow employers to prohibit firearms from being carried in buildings and on the property and premises of employers. Some of those laws also allow employers under certain circumstances to prohibit firearms in parking lots. A majority of the laws though, like Illinois' Concealed Carry Act, require employers to allow firearms to be stored in vehicles in the parking lot, but allow employers to prohibit employees from displaying and brandishing a firearm in the parking lot, unless for the sole purpose of storing the firearm.

So, what should employers be paying attention to and doing? First and foremost, they should review their policies and procedures, as well as state and local laws, to determine how and what they want to do with regard to firearms. Regardless of whether an employer allows concealed carry in the workplace or prohibits concealed carry, there are certain policies and procedures that they should put into place. This includes specifically addressing workplace violence and prohibited uses of firearms in the workplace. Employers that allow employees to conceal and carry should also consider how firearms are stored in the workplace, limitations on carrying, and whether an application process is needed so the company knows who may be carrying a concealed weapon. For employers that

wish to prohibit concealed carry or firearms in the workplace, they should consider whether any carve outs are needed to allow certain positions, such as security guards, to carry a firearm. Additionally, all employers should consider a plan to address what would occur if a weapon is brought into the workplace. Much like a fire plan, the hope is that you never have to use it, but for safety purposes, employers should consider an “active shooter” plan and provide training or walkthroughs for employees. Likewise, employers should consider what kind of potential liability and insurance coverage they have for these situations. In some cases, workers’ compensation insurance may cover injuries related to workplace violence and in others commercial general liability insurance or other plans may be needed.

The underlining message is that employers should consider and take actions to address this issue and the possibility of workplace violence involving a firearm.

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