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## Packing Heat in Parked Cars

Effective Sept. 1, Texas employees can store weapons in their vehicles while at work. The new law specifically allows employees to store and have access to guns kept in privately owned vehicles parked on or in employer-provided parking areas. If in-house lawyers haven't done so already, now is the time to review company policies in light of the new law, write David Barron and Daniel Schuch.

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Effective Sept. 1, Texas employees can store weapons in their vehicles while at work. The new law does not allow employees to carry firearms into the workplace, but it specifically does allow employees to store and have access to guns kept in privately owned vehicles parked on or in employer-provided parking areas. If in-house lawyers haven't done so already, now is the time to review company policies in light of the new law.

The law prohibits public and private employers from enacting and enforcing policies that prevent employees from transporting or storing firearms in their locked, private vehicles while parked on or in an employer-provided parking area. Importantly, the law applies to all lawfully owned firearms, not just those owned under a concealed handgun license.

One important question regarding the scope of the law is whether it only covers employer-owned parking lots. In other words, can the owner of an office building still prevent tenants and their employees from bringing guns into an adjacent parking lot? The answer appears to be "Yes," since the law only restricts employer policies, not a property owner's longstanding right to set the terms for use of his or her property.

The law comes packing a number of significant exceptions that would allow an employer to retain discretion regarding firearms on certain company property. These include but are not limited to school districts, private and charter schools, and certain chemical manufacturers and oil and gas refineries. The law also includes an exception for employees who drive company vehicles.

The exceptions to the law could prove difficult for businesses to manage, particularly when employees park at multiple work locations, only some of which an exception covers. For example, what should an in-house lawyer advise regarding a management employee who regularly parks in a company-owned parking lot covered by the law but who frequently visits an oil refinery subject to an exemption? To avoid confusion, the legal department likely will need to review company properties to determine which an exemption covers.

While some employers may feel that the law intrudes upon their private property rights, it also provides a shield from some liability. Unless gross negligence is involved, an employer cannot be sued for damages resulting from an incident involving a firearm that is stored according to the provisions of the law.

Of course, this protection may be of little relief to an employer who suffers an incident of workplace violence. In-house counsel may want to evaluate additional protections now that all companies presumably are on notice that employees may have access to firearms right outside the office door.

### **Steps to Consider**

By now, in-house counsel should have reviewed the company's workplace policies relating to firearm possession on company property to ensure compliance with the new law. Other practical steps the legal department may want to consider include:

- identifying company owned facilities that fall under an exception in the statute, i.e., a school, a chemical manufacturer, or an oil and gas refinery;
- creating a protocol if an employee travels between facilities and is unsure of whether he or she can bring a lawfully stored weapon into a particular parking lot;
- working with property management to assess applicable rules for employee parking lots owned by third parties; and
- conducting an audit of all workplace violence programs to ensure a comprehensive approach is in place for responding to jokes, threats or a disgruntled worker.

Lastly, the law only says that an employer may not "prohibit" an employee from storing a lawful firearm in their vehicle. Although most gun owners are responsible citizens who would not leave a gun in an unsecure location, there will always be those who are more careless about storing their weapons. In such situations, employers should be permitted to impose commonsense guidelines on employees, such as not storing a gun in a labeled case on the front seat and not keeping a loaded shotgun in a gun rack.

The law also presumably would allow an employer to require employees to identify themselves to the human resources department if they will be keeping a gun in a vehicle parked on a company lot. Such information could prove useful in the event of a termination of that particular employee or a break-in involving a vehicle with a known firearm stored inside.

This new law likely will force employers' lawyers to re-examine their clients' policies, especially if large numbers of employees avail themselves of their newfound rights. Although no one can predict whether this law will make the workplace more or less safe, the odds of an employee having access to a gun at work just went up.