



conceal & carry

Coming To A Business Near You

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Introduction



- Conceal & Carry adds a complication to business operations.
- Businesses must develop practices, standards, and protocols to respond to impact of the new law on their operations.
- Presentation is designed for private businesses and is meant to convey information only.
- No attorney/relationship is created nor is any legal advice offered.

What Is Conceal & Carry

- New law – goes into effect on November 1, 2011
- Allows a licensed person to carry an armed concealed weapon.
- Weapon means a handgun, electric weapon, a knife (but not a switchblade), or a billy club. A handgun does not include a machine gun, a short barreled rifle or a short barreled shotgun.
- What does “concealed” mean? Not defined by the new statute but likely by case law. Assume it means weapon is out of sight.

Noteworthy About Licensing

- Only background check is whether individual is prohibited by any existing state or federal law from possessing a firearm.
- An applicant must first do something wrong to lose the right to carry a firearm under state or federal law. But there is no mental health or mental history screening for suitability to carry a gun in the first instance.

Where Are Weapons Bans Not Valid?

- In the licensee's motor vehicle.
- In parking lots or parking facilities.

Employer Rights & Limitations

- Rights: Employers may prohibit some or all licensed employees from carrying a concealed weapon.
- Prohibitions: Employers may not prohibit a licensed employee from carrying a concealed weapon, ammunition or storing either in the employee's motor vehicle, even when used for employment purposes or parked on company property.
- Note: Explore conditions on how weapons and ammunition can be secured, such as kept separately or in a locked box in the trunk.

Businesses' Rights & Limitations

- Rights: Businesses can limit some or all non-employees from carrying concealed weapons onto their property, defined as their premises, outside grounds, lands, or special events.
- Limitations: Businesses must provide proper notice of the prohibitions.
- Limitations: Business that are landlords cannot prohibit tenants from carrying concealed weapons on leased property. Also cannot prohibit anyone in space used for parking or as a parking facility.

Liability Immunity

- Allowing individuals to carry a concealed weapon results in immunity for that decision.
- Note: The concealed weapon carrier will likely need to be licensed; immunity may not apply to expired, suspended, or revoked weapon holders.
- Note: While the decision to allow weapons may be immune from liability, negligence in defining standards, proper care, or use of weapons, may still be subject of litigation. Courts will need to define the protection afforded by the immunity.

Immunity – Use It Or “Lose” It?

- What is the actual immunity?
 - “A person that does not prohibit an individual from carrying a concealed weapon on property the person owns or occupies is immune from any liability arising from that decision.”
 - “An employer that does not prohibit one or more employees from carrying a concealed weapon is immune from any liability arising from its decision.”

Immunity – Use It Or “Lose” It?

- Immunity is only triggered when something bad happens after someone is allowed to carry a concealed weapon.
- There is no “penalty” or other language in the statute to punish businesses that prohibit concealed carry.
- What happens presently when weapons are banned? Is there extra liability?
- Note: The employer immunity, however, is badly written and can be interpreted two ways.

Notice Requirements

- An owner or occupant of land can prohibit weapons by: 1) Telling a person orally, in writing. 2) By posting a sign at least 11 inches square in at least two conspicuous places for every 40 acres to be protected. The sign must state name of the person giving the notice and indicate whether the person is an owner or occupant. 3) If markings at least one foot long, including in a contrasting color the phrase "private land" and the name of the owner, are made in at least 2 conspicuous places for every 40 acres to be protected.
- A landlord can prohibit non-tenants from carrying weapons in the common areas by posting a 5x7 sign near a prominent place near all of the entrances where the restriction applies, which a reasonable person should be expected to see.
- A landlord can prohibit non-tenants from carrying weapons on the grounds by posting a 5x7 sign near all probable access points to the grounds, which a reasonable person should be expected to see.
- A tenant or owner of a part of a non-residential building (including nursing homes, residential facilities, residential care complex or hospice), a state or local government unit, or a university/college can prohibit non-tenants from carrying weapons by posting a 5x7 sign in a prominent place near all of the entrances where the restrictions applies, which a reasonable person should be expected to see.
- Organizers of a special event should post signs in a prominent place near all entrances, where individuals can be reasonably expected to see the sign.

Just Because There's A Sign Doesn't Mean It Will Be Followed

- Commercial businesses should train receptionists and parking attendants on how to deal with individuals who have weapons. If there is a ban, receptionists should notify visitors of any restrictions. such as inform visitors to leave concealed weapons in the car.
- Commercial businesses should consider not storing visitors' weapons at the front desk or in a lockbox. You don't need the headache or liability of safeguarding others' weapons. However, retail stores may want to think about a

Deciding Who Should Carry In The Organization

- Is there a business justification for allowing employees or visitors to carry a concealed weapon?
- Is there proper training, under stressful conditions and with use of live ammunition?
- Are there designated responders who are clearly identified and recognized by others?
- Are there protocols for how responders' weapons are to be used, stored, or safeguarded?

Are Concealed Weapons Worth It?

- Immunity may protect your organization from monetary liability. What about:
 - Injury to employees or customers?
 - Impact to your business's reputation?
 - Impact on business operating licenses?
- A weapon is not a shield – it can be taken away, can be used against others, and it can be used incorrectly.

Prior To November 1, 2011

- Start drafting policies, procedures and protocols for Conceal & Carry.
- Define the restrictions your organization wants and get signs ready. Repeat the rules for employees.
- Note: Review of the Conceal & Carry law is just the beginning. There are federal & constitutional rights and limitations to review when drafting and enforcing policies. Be careful of zero tolerance policies when someone faces a personal safety or domestic violence related situation.