

## **Does Nebraska's New Handgun Law Allow Employees to "Pack Heat" at Work?**

***Mark A. Fahleson, Esq.***  
***Rembolt Ludtke LLP***

On April 5, 2006, Governor Dave Heineman signed the Concealed Handgun Permit Act into law. Known throughout the legislative debate as LB 454, the Act authorizes eligible individuals to obtain a permit to carry a concealed handgun in Nebraska. Since its adoption, many Nebraska employers have inquired about the effect of this new law and its potential impact on Nebraska workplaces. This article attempts to address some of those questions.

*When does the law go into effect?*

The Act becomes effective January 1, 2007.

*Does it apply only to handguns?*

Most of the provisions of the Act apply only to "handguns," which is defined in the Act as "any firearm with a barrel less than sixteen inches in length or any firearm designed to be held and fired by the use of a single hand."

*Does the Act allow employees to bring guns to work?*

Not if employers take appropriate steps under the Act.

The Act contains several exemptions detailing places where concealed handguns cannot be brought, including police stations, buildings with courtrooms, polling places, meetings of political subdivisions such as cities and counties, schools, financial institutions, and political rallies. Another exemption bars concealed handguns from:

a place or premises where the person, persons, entity, or entities in control of the property ***or employer in control*** of the property ***has prohibited*** permitholders from carrying concealed handguns into or onto the place or premises.

### **Employment/Labor Law Practice Group**

Britt J. Ehlers  
behlers@remboltludtke.com

Mark A. Fahleson  
mfahleson@remboltludtke.com

### **Rembolt Ludtke LLP**

1201 Lincoln Mall, Suite 102  
Lincoln, NE 68508  
Fax: 402 / 475-5087  
402 / 475-5100

125 South 6<sup>th</sup> Street  
Seward, NE 68434  
Fax: 402 / 643-3969  
402 / 643-4770

[www.remboltludtke.com](http://www.remboltludtke.com)

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*Are there any additional steps employers must or should take?*

Yes. One provision of the Act states that no violation of the Act occurs if a person brings a handgun to work unless the employer

has ***posted conspicuous notice*** that carrying a concealed handgun is prohibited in or on the place or premises or has made a request, directly or through an authorized representative or management personnel, that the permitholder remove the concealed handgun from the place or premises.

Consequently, employers desiring to keep handguns out of the workplace must expressly prohibit firearms and must conspicuously post that notice for all visitors, contractors and employees who might enter onto the employer's property.

*Does the Act permit employees to have guns in their cars in the company parking lot?*

Maybe. The Act states that no violation of the Act occurs if a permitholder has a concealed handgun in a vehicle "so long as the handgun is not removed from the vehicle while the vehicle is in or on the place or premises." However, the Act expressly states that "[a]n employer may prohibit employees or other persons who are permitholders from carrying concealed handguns in vehicles owned by the employer."

Again, employers desiring to keep guns off of company property must expressly prohibit guns on company property (including in employee vehicles) and are encouraged to conspicuously post that notice for all visitors, contractors and employees who might enter onto the employer's property.

However, barring employees from having guns, such as shotguns for hunting, in their automobiles is not without controversy. In 2002, twelve employees at Weyerhaeuser's paper mill in southeast Oklahoma were fired after drug-sniffing dogs found firearms in their vehicles in Weyerhaeuser's parking lot. Several of the employees subsequently filed lawsuits against Weyerhaeuser alleging, among other things, wrongful termination in violation of federal and state public policy protecting the rights of individuals to keep and bear arms. This dispute has caused at least thirteen states to consider legislation that would prohibit employers from barring guns on company property, and in 2004 Oklahoma adopted a law barring employers from establishing "any policy or rule that has the effect of prohibiting any person, except a convicted felon, from transporting and storing firearms in a locked vehicle on any property set aside for any vehicle." Since its adoption, several large employers such

as ConocoPhillips and Halliburton filed suit to prevent the Oklahoma law from going into effect. In response, the National Rifle Association, which has led the lobbying effort for the pro-gun legislation, has targeted the companies that filed the lawsuit, contending that employer rules barring employees from having guns in their cars effectively deprives employees of their Second Amendment right to keep and bear arms.

**LESSON:** Objective, empirically-supported reasons exist for employer policies prohibiting firearms at work. At least one study suggests that allowing guns on company property quadruples the chances that someone will be killed.

Nebraska employers desiring to keep firearms out of their workplaces and off of their property should adopt and publish a policy that expressly prohibits firearms on the employer's property (including in employee vehicles) or the possession of firearms while performing work for the employer, and conspicuously post that policy for all visitors, contractors and employees who might enter onto the employer's property. In addition, before an employer attempts to search for weapons in the workplace or discipline an employee for possessing a firearm, they are strongly encouraged to consult with experienced employment law counsel so as to hopefully avoid any potential liability.

***Fahleson is a partner with the Lincoln-based law firm of Rembolt Ludtke LLP and may be reached at (402) 475-5100 or [mfahleson@remboltludtke.com](mailto:mfahleson@remboltludtke.com). This article is provided for general informational purposes only and should not be construed as legal advice. Those requiring legal advice are encouraged to consult with their attorney.***