

BANNING OF WEAPONS IN LOCKED VEHICLES ON COMPANY PROPERTY
CONTRARY TO LAW IN A FEW STATES

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In most states, employers can prohibit guns and other weapons on their property. Although 13 state legislatures are considering or have considered workplace gun laws, the vast majority of states have not addressed this issue, which allows for the continued ban of guns and other weapons in the workplace.

This issue first arose in response to publicity about a firing in 2002 of five employees at an Oklahoma paper mill where police dogs sniffed out firearms in their vehicles. In response to the firings, Oklahoma amended its Self-Defense Act in March 2004 to provide: "No person, property owner, tenant, employer, or business entity shall be permitted to establish 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." (Okla. Stat. Tit. 21, §1290.22). This amendment has not yet taken effect because business groups filed suit in federal court and the judge issued a temporary restraining order barring the state from enforcing the amendment. The case was stayed pending the outcome of a lawsuit filed by the paper mill workers in response to their firing. On February 15, 2006, the United States Court of Appeals for the Tenth Circuit declined to recognize a claim of wrongful discharge by the paper mill workers. The focus now returns to the case filed by the business groups to determine the enforceability of the Self-Defense Act.

At this point, only three states - Indiana, Oklahoma and Alaska - have actually enacted laws allowing employees to store weapons in locked vehicles on company property; however, as previously stated, enforcement of the Oklahoma law is currently stayed. Thus, if your company has a policy prohibiting weapons on company property, the policy does not have to be re-written or addressed unless your business is located in Indiana or Alaska.

This is not the end of the inquiry, however. Since the beginning of 2006, Alabama, California, Florida, Georgia, Missouri, New Hampshire, Tennessee, Utah, Virginia and Wisconsin have reviewed laws similar to Oklahoma's barring policies against the prohibition of legal gun owners from storing guns in their locked vehicles on private property and seeking to fine companies/property owners that bar gun possession on their property; however, none of these states have yet to pass the law. Wisconsin's proposed law was vetoed by Wisconsin's governor. Such laws have set the stage for debate between the National Rifle Association ("NRA") and employer groups concerned about liability and workplace violence. The NRA argues that policies against guns at work are unconstitutional and that employees, especially shift workers who commute at strange hours, should have the right to protect themselves in their company's parking lot and during their commute. The employer groups argue that the legislation forcing employers to permit guns on their property destroys employers property rights and limits employers' ability to ensure safety.

In summary, in the vast majority of states employers have the right to prohibit weapons on their property. Therefore, unless your company is located in Indiana or Alaska, you can ban

legal gun owners from storing guns in their locked vehicles on company property. If your business is located in Oklahoma or one of the nine other states considering such laws and you would like to prohibit weapons at your work site, please continue to monitor the status of the pending federal case in Oklahoma and the status of the bills pending in the states identified above. Stay tuned.

For further information regarding an employer's right to ban weapons on its property, please contact Arika J. Osacky at (312) 845-5434 or aosacky@schwartzcooper.com, or any other member of Schwartz Cooper's Employment Law Practice Group.