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## TENNESSEE'S "GUNS IN TRUNKS" LAW: What employers need to know now

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New legislation affects the ability of employers with operations in Tennessee to take action against employees for bringing guns to work.

*In summary, an employer may prohibit guns anywhere on company property, but an employee with a handgun-carry permit may keep a gun out of sight in a locked vehicle in the parking lot. All other possession of weapons on company property may still be banned, and employees may still be terminated for violation of an employer's weapons policy. Employers with operations in Tennessee will need to become familiar with the new law and evaluate their weapons policies in light of the real world facts concerning gun ownership and possession.*

Here are some FAQs, as well as some proposed policy language that should help you get into compliance with the new law....

### Before we get started, can we have some background?

Sure! In March 2013, Governor Bill Haslam signed a "**Guns in Trunks**" bill into law. The law allowed anyone with a valid handgun-carry permit to transport and store a firearm or ammunition in his or her vehicle. The law applied to any public or private parking area, as long as the permit-holder was parked legally and the gun or ammo was "kept from ordinary observation." If the permit-holder was not in the vehicle, then the gun or ammo had to be both "kept from ordinary observation" and stored in a locked glove compartment, trunk, interior of the vehicle, or container "securely affixed to such motor vehicle." The original legislation was silent as to whether an employer could prohibit firearms or ammunition in vehicles parked on its premises, or whether it could take action under a weapons policy against an employee who brought guns or ammo on premises in compliance with the law.

In April 2015, Gov. Haslam signed legislation that was intended to address this ambiguity in the original law. The **clarifying legislation** took effect this past July 1.

### What does the "clarification" say? Can employers enforce their no-weapons policies in Tennessee?

The clarification says that an employer, regardless of size, is prohibited from discharging or taking any adverse employment action against a Tennessee employee "solely" for complying with the "Guns in Trunks" statute. An employee whose rights are violated is entitled to seek damages, attorneys' fees, and court costs, as well as a court order prohibiting the employer from violating the law. The statute of limitations is one year.

The clarification applies only to terminations and adverse employment actions occurring on or after July 1, 2015.



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**OK, but this applies only to weapons or ammo in locked vehicles (or vehicle compartments), right? Can we still prohibit employees from bringing weapons into our buildings?**

Yes. The law applies to parking areas only – you still have the right to ban weapons and ammunition indoors – or anywhere on your premises outside the locked vehicle or compartment.

**Does the law apply only to handguns and other firearms that can be concealed?**

It does not appear so. Presumably, hunting rifles and the like would also be protected, as long as the permit-holder was in compliance with the other provisions of the law.

**What if someone sees the weapon while the employee is securing it?**

The original law (unchanged in 2015) says that this would not be a violation of the law. In other words, if the permit-holder is securing a weapon as required by the law and another employee or security guard happens to see that taking place, the permit-holder will still be in compliance.

**Are there any limitations on the rights of employees to keep weapons in their parked vehicles?**

Besides the “locking” and “out of sight” requirements, yes. The employee must have a valid handgun-carry permit issued by the State of Tennessee. The vehicle in question must belong to the permit-holder, not to someone else. And, as already noted above, the vehicle must be legally parked.

**I’m worried about workplace violence. What if there is an “incident” involving a weapon stored in compliance with the Guns in Trunks law? Is the employer going to be responsible?**

No. The original version of the law (unchanged in 2015) specifically provides that employers (or business owners) will *not* have liability for violence incidents that occur with the use of a weapon stored in compliance with the law unless the employer (or business owner) is an actual participant in the incident or intentionally “solicits or procures” the conduct that resulted in the violence incident.

**Do you have any proposed weapons policy language for Tennessee employers?**

Yes. If your current policy prohibits employees from storing firearms and ammunition in their vehicles on company property, then that policy is inconsistent with the law and should be amended as soon as possible. Here’s an example of a policy that would be in line with the latest version of the “Guns in Trunks” law:

Weapons of any kind are not permitted on Company property, including any and all buildings and grounds. Employees who bring weapons onto the premises will be subject to discipline, up to and including immediate discharge.

Under Tennessee law, however, employees who have valid handgun-carry permits are allowed to bring a firearm and ammunition onto the Company’s parking lot, provided that the firearm and ammunition are kept in the employee’s vehicle in accordance with Tenn. Code Ann. § 39-17-1313.

The firearm and ammunition, however, may not be removed from the vehicle while it is on Company property. Removal of the firearm and ammunition from the vehicle may result in discipline, up to and including immediate discharge. The Company will not discharge or take any adverse employment action against an employee solely for transporting or storing a firearm or firearm ammunition in an employer parking area in a manner consistent with § 39-17-1313(a).

# CLIENT BULLETIN

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**We have facilities in a number of states, and we want to comply with the Tennessee law but be as strict as possible at all of our locations. Do you have any proposed policy language for us?**

Multi-state employers who have facilities in Tennessee may wish to adopt something like the following:

Except where allowed by state law, including in Tennessee pursuant to Tenn. Code. Ann. § 38-17-1313, weapons of any kind are not permitted on the premises of the Company, including any and all buildings and grounds. Employees who bring weapons onto the premises will be subject to discipline, up to and including immediate discharge....

**Do we have any court decisions yet on the Guns in Trunks law?**

Not yet, because the laws are so new. But we will continue to monitor legal developments in this area and will keep you posted.

*EDITOR'S NOTE: Phylinda Ramsey, the author of this bulletin, has left our firm to take an in-house counsel position. But please feel free to contact any attorney in our **Nashville Office**, including Office Head **Zan Blue** or **Teresa Bult**.*

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