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EMPLOYMENT LAW LETTER

Part of your Florida Employment Law Service

G. Thomas Harper, Editor
www.HarperGerlach.com

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Absenteeism

Ah, spring is in the air. The winter chill is gone, and the trees and flowers are blooming. And we all know that with warmer weather comes a string of unexpected employee absences. How can you rein in your workers' weather-related "illnesses"? At www.HRhero.com/news, you can find the following helpful tools:

- HR Executive Special Report — How to Manage & Minimize Employee Absences
- HR Sample Policy — Attendance and Punctuality
- HR Hero Guidebook — HR Hero's Guide to Attendance

LEGISLATION

Governor signs 'bring your gun to work' law

Last spring, we reported on a bill allowing guns on private and public premises, but last year's bill was pulled in the wake of the Virginia Tech tragedy. Timing must be everything because this year, the bill easily passed the Florida House 72-42 and the Senate 26-13. The law, which is similar to bills in many other states, is backed by the National Rifle Association and some unions and is vehemently opposed by the Florida Chamber of Commerce. Let's take a look at your obligations under this new law.

What the law says

The new law, officially titled "Preservation and Protection of the Right to Keep and Bear Arms in Motor Vehicles Act of 2008," became law upon Governor Charlie Crist's signature. It prohibits both public and private employers from restricting customers, employees, or invitees from "possessing any legally owned firearm when such firearm is lawfully possessed and locked inside or locked to a private motor vehicle in a parking lot." The law further prohibits you from asking employees, customers, and invitees whether they have firearms in their cars and from searching the cars for firearms.

New protected class of employees!

You cannot take any action against customers, employees, or invitees for

having a firearm stored in a car. You are also prohibited from conditioning employment on a prospective employee's holding or not holding a concealed weapons license. In addition, employment can't be conditioned on the applicant's agreement to keep his firearm somewhere other than on your premises.

Under the law, you also cannot prohibit employees, customers, or invitees from bringing their cars into your parking lot because of a legally possessed concealed weapon. And you may not terminate or otherwise discriminate against an employee for "exercising his or her constitutional right to keep and bear arms or for exercising the right of self-defense" so long as the firearm isn't exhibited on company property for anything other than "defensive purposes."

The law does provide immunity from civil actions "based on actions or inactions taken in compliance with this section." It also provides for a private civil action for "reasonable personal costs and losses," injunctive (court-ordered) relief, and attorneys' fees and costs for noncompliance with the law. The law will be enforced by the attorney general.

The law lists several places of employment exempted from its requirements, including schools, correctional institutions, nuclear-powered electric

generation facilities, national defense, aerospace, and homeland security employers, and explosive materials employers. It will take effect on July 1, 2008.

Law's impact

The law's greatest impact might be that it creates yet another class of protected employees in Florida. Employment handbooks are always a work in progress in this state because our legislators continue to add restrictions to your ability to manage your place of business and private property. You will have to amend your policies to reflect the restrictions mandated by the new firearms law and train your managers and supervisors on its prohibitions.

Of course, employee safety becomes an important issue now as well. Remember, the law applies only to licensed concealed weapons owners. Nothing restricts you from prohibiting unconcealed weapons or guns belonging to someone who doesn't have a valid permit.

Georgia lawmakers recently considered a similar bill, but the Georgia Chamber of Commerce was more successful in watering the bill down in that state. In fact, the Georgia bill exempts employer parking lots, which are a large part of the Florida law. You can review the history of the Florida legislation at www.myfloridahouse.gov or www.flsenate.gov under HB503 and SB1130.

With the passage of this bill, there are now 34 protected classes of employees in Florida. In other words, it's against the law in Florida to fire or discriminate against employees for at least 34 reasons! Need to see the list? Send an e-mail to Tom Harper at gth@harpergerlach.com. ♣

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For a copy of this article please send an e-mail request to Tom Harper at:
gth@harpergerlach.com