

CONCEALED WEAPONS IN THE WORKPLACE

We have received a number of questions regarding the options for employers in dealing with Wisconsin's new concealed carry law, which took effect in November.

The concealed carry law allows Wisconsin residents who obtain a license and meet certain requirements to carry concealed handguns and other weapons, including electric weapons, knives (excluding switchblades) and billy clubs.

The concealed carry law prohibits the carrying of concealed weapons in the following places:

- Police stations, sheriff's offices, state patrol stations, and certain other law enforcement offices;
- Jails, prisons, houses of correction, and secured correctional facilities;
- Certain secured treatment and mental health facilities;
- County, state and federal courthouses;
- Municipal courtrooms if court is in session; and
- Areas beyond security checkpoints in airports.

The law allows employers to prohibit their employees from carrying concealed weapons during the course of the employee's employment. However, the employer may not prohibit the employee from carrying a concealed weapon in the employee's own motor vehicle, even when the motor vehicle is driven or parked on the employer's property or while the vehicle is used in the course of employment.

For employers who choose not to prohibit their employees from carrying concealed weapons, the law includes a provision granting immunity to the employer for liability arising from such decision.

There is not a corresponding grant of immunity in the concealed carry law for employers who choose to prohibit the carrying of concealed weapons by employees. A question arises as to whether an employer could potentially face liability if an employee is unable to defend himself as a result of a policy barring the carrying of weapons. However, most commentators agree that workers compensation insurance should usually cover the employer's theoretical liability to the employee if the incident occurs during the course of employment while the employee is at work.

Businesses have the right to prohibit visitors, customers, etc. from carrying weapons onto their premises. This can be accomplished by the posting of signs no less than 5" x 7" in size, which must be posted in a prominent place near all entrances and access points.

The Wisconsin legislature clearly wanted to give employers the option of prohibiting their employees from carrying weapons in the workplace. If an employer chooses to adopt a rule prohibiting the carrying of weapons while its employees are at work, it will be important for the employer to adopt and distribute a clearly-worded written policy to its employees. The policy should also be included as a part of any employee handbook.