

CHANGES TO THE CONCEALED HANDGUN PERMIT ACT

In 2007, the Nebraska legislature passed the Concealed Handgun Permit Act (“Act”). The Act allows Nebraska residents to obtain a permit to carry a concealed handgun if certain fee, safety, experience and background check requirements are satisfied. Lawful permit holders may carry a concealed handgun “anywhere in the state” unless specifically prohibited by the Act. However, if a location is open to the public and a conspicuous notice is posted, visitors may be prohibited from carrying a concealed handgun onto the premises even if the handgun owner has properly obtained a permit.

The Act specifically allows employers to prohibit permit holders from carrying concealed handguns onto the premises. In previous communications, we alerted clients to this legislation and advised employers to adopt a policy addressing the possession of a concealed handgun and other weapons in the workplace. If the workplace is open to the public or is otherwise visited by non-employees, such as independent contractors, delivery personnel, mail carriers and other individuals who regularly visit the workplace, employers should further decide whether to conspicuously post notices prohibiting the possession of such items on the premises.

On August 30, 2009, L.B. 430 became effective and clarified certain ambiguities raised by the Act. For example, the original Act did not address whether Nebraska cities and villages could legally enforce individual ordinances with requirements that differed from the Act. Arguably, an individual could lawfully obtain a permit and carry a concealed handgun in accordance with the Act yet simultaneously be in violation of a city or village ordinance that prohibited the carrying of a concealed handgun. L.B. 430 now clarifies that cities and villages cannot prohibit “the carrying of a concealed handgun in compliance with the [Act].” Practically, then, ordinances of a particular village or city will only apply to individuals with concealed handguns who have not properly obtained a permit under the Act. L.B. 430 explains that any existing city or village ordinance, permit or regulation is declared null and void if it conflicts with rights of an individual who has obtained a lawful permit under the Act.

Additionally, a valid license or permit to carry a concealed handgun that has been issued by any other state or the District of Columbia will now be recognized as valid in Nebraska under the Act if the holder of the license or permit is not a Nebraska resident and the Attorney General has determined that the state’s standards for issuance of such licenses or permits are equal to or greater than the standards imposed by the Act. The Attorney General will maintain and publish a list of such states.

L.B. 430 extends the time period for the Nebraska State Patrol to issue a permit under the Act. As originally drafted, the Act stated that the Nebraska State Patrol must issue a permit to carry a concealed handgun within five days after completion of the applicant’s criminal history record check (assuming that the other requirements of the Act are satisfied). Pursuant to L.B. 430, this time period has been extended to forty-five days.

Additionally, a place of worship may now authorize its security personnel carry concealed handguns obtained pursuant to the Act as long as written notice is given to the congregation and the carrying of concealed handguns by security personnel does not violate any real property lease agreement.

Finally, L.B. 430 also addresses confusion regarding the storage of a concealed handgun in an automobile upon premises open to the public where visitors have been properly warned that concealed weapons are prohibited. The original Act explained that despite a posted notice prohibiting the carrying of a concealed handgun in a public place, a permit holder would not violate such prohibition as long as the handgun was not removed from the vehicle while on the premises. L.B. 430 clarifies that a permit holder will not violate such a posted restriction if, prior to exiting the vehicle, the handgun is locked inside the glove box, trunk, other compartment of the vehicle or a storage box securely attached to the vehicle.

Employers should consider their respective workplace, employment practices and parking areas. Visible security cameras in parking areas may provide additional protection to employers. Further, employers should consider posting conspicuous signs in parking areas that warn employees and other visitors or individuals that they may not carry a concealed handgun or other weapon inside company premises (assuming this is the company’s policy) regardless of whether the individual has obtained a concealed handgun permit, and that all lawfully possessed concealed handguns must be locked in vehicles as described above before entering the company’s premises.

Please contact a member of Koley Jessen’s Employment, Labor and Benefits Group if you have questions about the Act, L.B. 430 or workplace policies addressing these issues.

SAVE THE DATE – 2009 EMPLOYMENT LAW SYMPOSIUM

NOVEMBER 5, 2009 – 1:00 to 4:30 p.m.

The Koley Jessen Employment, Labor and Benefits Group:

Margaret C. Hershiser

402.343.3711

margaret.hershiser@koleyjessen.com

Julie A. Schultz

402.343.3766

julie.schultz@koleyjessen.com

Leilani M. Harbeck

402.343.3767

leilani.harbeck@koleyjessen.com

Joan M. Cannon

402.343.3753

joan.cannon@koleyjessen.com

Richard D. Vroman

402.343.3810

richard.vroman@koleyjessen.com

Ryan J. Sevcik

402.343.3859

ryan.sevcik@koleyjessen.com