

Publications

Labor and Employment Alert: The Lone Star State Now Allows the Open Carry of Handguns

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On January 1, 2016, the Texas Open Carry Law becomes effective. The new law allows a person with a concealed handgun license to carry a holstered handgun in plain view in any public place where a concealed handgun is otherwise permitted. The prohibition on carrying handguns in hospitals, nursing homes, amusement parks, government buildings and places of worship will remain.

The Open Carry Law allows property owners (or someone with apparent authority to act for the owner) and employers to prohibit individuals from carrying concealed or openly holstered handguns onto their "premises," which includes "the building or a portion of the building." To do so, the property owner or employer must orally inform an individual that carrying is prohibited and/or post specific, statutorily prescribed notices on the property. The notices must appear in contrasting colors with block letters at least one inch in height and be displayed in a conspicuous manner clearly visible to the public. To prohibit concealed handguns, the notice must say in both English and Spanish:

Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun.

To prohibit the open carry of handguns, the notice must say in both English and Spanish:

Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly.

This means that a business will need to post four statements in order to prohibit both open carry and concealed carry.

Notably, “premises” do not include “any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area.” This means, for example, that an employer may not prohibit an employee from openly carrying a holstered handgun in the employer’s parking lot or parking garage (similar to the way employer may not prohibit an employee from storing firearms or ammunition in the employee’s locked vehicle while in the employer’s parking lot).

The Open Carry Law also does not grant employers civil immunity from an occurrence involving an employee and an openly carried handgun. By contrast, the concealed handgun law expressly includes an immunity provision for employers (except in cases of gross negligence) related to an employee’s handgun and ammunition stored or transported in an employee’s vehicle while on the employer’s property.

Contact your Vorys employment lawyer if you have questions about complying with the Texas gun laws in your workplace or business.