



Guns in the Workplace: Legal, Policy & Training Issues

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LIABILITY LIMITATION

This session is intended to acquaint you with certain legal principles and security methods.

You should consult the legal advisor for your firm or your employer before taking police or security actions based on the materials provided and/or the opinions of law expressed in this unit of instruction.

What is legally permissible varies on the particular circumstances of the situation. This session is only designed to acquaint the attendee on broad legal/security concepts and procedures. It is not intended to act as policy or procedure for you or your institution.

OVERVIEW OF SESSION

- Summary of recent Gun Laws
- Suggested Policies related to Gun Laws
- Suggested Training related to Gun Laws

Florida: Section 790.251

- **EE allowed firearm w/in vehicle in parking lot (not street parking), if:**
 - 1. License, or**
 - 2. Locked in vehicle (duffle bag OK- *Trock v. Florida*)**
- **Prohibits inquires as to presence of firearms in vehicles.**
- **Prohibits searching of vehicles in parking lot unless L.E. w/P.C.**
- **Prohibits conditioning employment on licensure status.**
- **Prohibits agreement w/EE to restrict firearms in vehicle.**
- **Prohibits termination/sanction of EE for lawful use of firearm or exercise of 2nd Amendment rights.**

Florida: Section 790.251

- **ER has immunity, no liability for actions or inactions related to compliance with statute.**
- **Enforcement w/A.G. or with Plaintiff**
- **Violation of statute remedies:**
 - 1. Damages**
 - 2. Injunction**
 - 3. Attorney's Fees**
 - 4. Court Costs**

Florida: Exceptions to Gun Statute

- 1. Schools**
- 2. Correctional Facilities**
- 3. Nuclear powered plants**
- 4. Homeland Security properties**
- 5. Explosives/Combustible materials**
- 6. *Company vehicles***
- 7. Otherwise prohibited by Federal laws or contracts**

Florida Retail Federation v. Attorney General of Florida

576 F.Supp.2d 1281

July 28, 2008

Negated two key aspects of Florida Gun Statute

Decision:

- Invalidated Customer provision to statute

Effect:

Customer's have no right to firearm in company parking lot

Decision:

- Negated assertion that OSHA preempted state statute

Effect:

General duty clause of OSHA does not allow businesses to ban guns from parking lots.

Georgia: Title 16-11-135

- **Prohibits conditioning employment on agreement w/EE to prohibit carrying firearm in vehicle w/in parking lot, if:**
 1. **Locked w/in vehicle**
 2. **EE has firearm license.**
- **ER shall not have policy that “has the effect” of allowing searches of vehicles in parking lots.**
- **Exceptions to search provision:**
 1. **Searches by L.E. w/P.C.**
 2. *Company vehicles*
 3. **Reasonable belief of imminent threat**
 4. **EE consents to search, but only if based on P.C. that company property contained w/in vehicle**

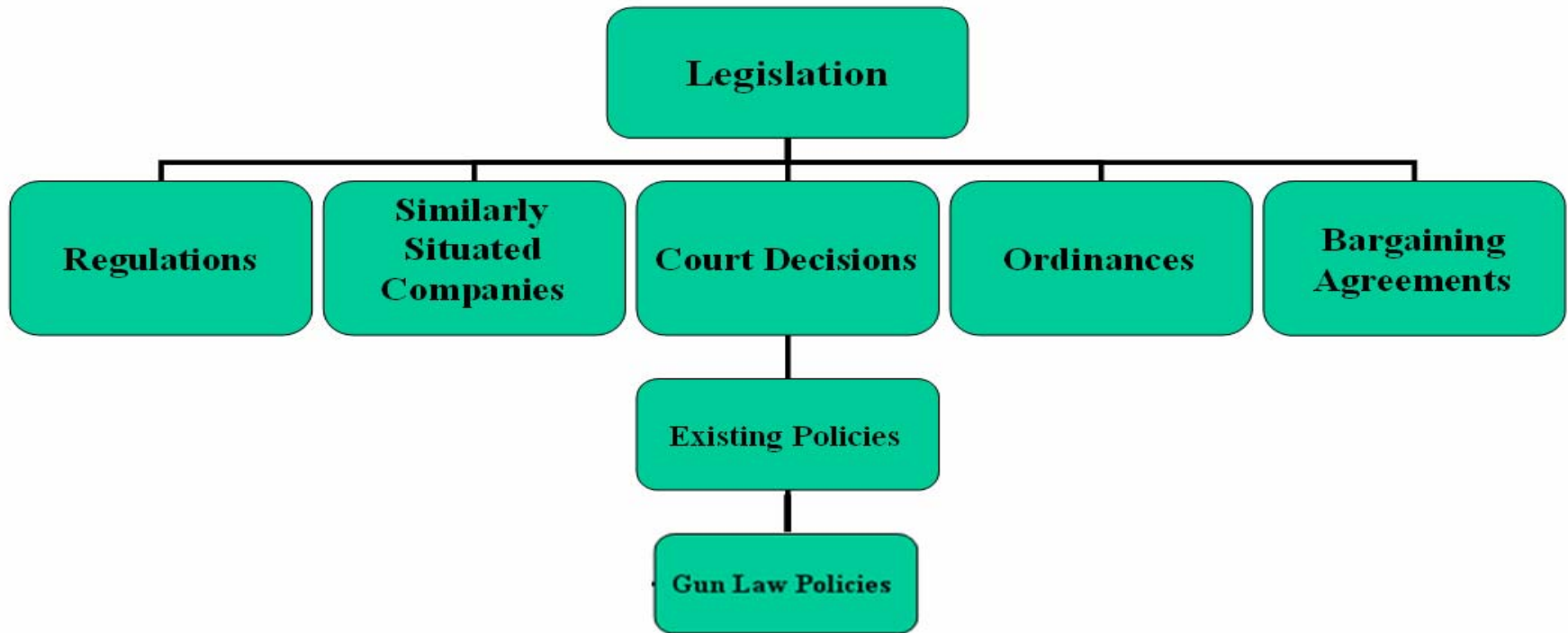
Georgia: Title 16-11-135

- **ER- no liability unless:**
 1. **ER commits criminal act w/firearm**
 2. **ER knew person would commit criminal act w/firearm on ER property**
- **Plaintiff liable for all legal costs if ER wins lawsuit**
- **Statute not construed to require additional security measures by ER**
- **Owners/Leases/Contracts: access control provisions shall supersede statute if also employer**

Georgia: Exceptions to Gun Statute

- 1. Secured parking lot w/restricted public access and applicable to all vehicles plus uniformly/frequently applied**
- 2. Penal Institutions**
- 3. Electric generation facilities**
- 4. D.O.D. contractor w/in military base or w/in mile of airport**
- 5. EE restriction due to completed or pending discipline**
- 6. Otherwise prohibited by state or federal law**
- 7. Parking lots contiguous to gas, water or L.E. facilities deemed homeland security risk**
- 8. Areas used for temporary parking**

Policy Considerations



Employment Policy Provisions

- **Remove any firearm license question in application.**
- **Do not conduct firearm licensure checks in background investigations.**
- **Affirmatively state that employment is not conditioned on licensure status.**
- **Make no agreements w/EE (or prospective EE's) related to firearm restrictions w/in parking lots.**
- **Do not discipline any EE based on lawful use of firearm or exercise of 2nd Amend.**

Security Policy Provisions

- **Signage: access points/bulletin boards/handbooks/intranet sites/portals prohibiting firearms & other weapons inside physical facility/ structures.**
- **Restrict ability of EE's to access their vehicle, except during lunch or other break periods.**
- **Closely monitor parking lots w/CCTV/access controls/officers.**
- **Develop or maintain search policies w/in workplace.**
- **Address vehicle search policies w/in parking lot.**
- **Consider implementing “restrictive parking lot” (w/appropriate signage & methodology)**
- **Consider “exclusion zones” w/in parking lot (w/appropriate signage)**
- **Consider firearm restrictions for disciplined EE's**

Training Suggestions

- **Train security officers on search and seizure policies**
- **Develop joint training protocols w/L.E. for emergencies**
- **Train security officers to recognize and respond to imminent threats**
- **Train EE's to be cognizant of indicators of workplace violence**
- **Train supervisors to closely monitor EE's with evidence of workplace violence indicators**
- **Train supervisors to immediately and appropriately respond to EE's with such indicators**