

BURR ALERT

Proposed Legislation Would Allow Employees to Possess Firearms in Privately Owned Vehicles on Employer's Property

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Alabama Senate Bill 286 passed the Alabama Senate by a vote of 28-5 on April 4, 2013. If enacted, the law would result in some major changes for private employers and private property owners relating to the storage and transportation of firearms by employees or invitees.

The bill provides that – as allowed under current law - employers can restrict employees from carrying firearms on their person while on the employer's property or while engaged in their employment activity. However, employers would be prevented from restricting or prohibiting employees from transporting or storing firearms in the employee's privately-owned vehicle. In order to fall within the protections of SB 286, employees must (1) operate or park their private vehicle in an area where it is regularly allowed to be, and (2) keep firearms out of view from ordinary observation in attended vehicles, or in unattended vehicles, keep firearms in a locked compartment such as a glove box or trunk.

If the legislation is enacted, employers would be prohibited from asking their employees about whether they are transporting or storing firearms in their private vehicles. In the event that an employer discovers, by other means, that the employee does possess a firearm in their vehicle the employer is prohibited from taking any adverse employment action against the employee. Further, employers are prohibited from establishing or enforcing policies prohibiting employees from transporting or storing firearms in their vehicles as outlined above. Employers who take adverse action against employees for firearm possession that is allowed under the law could be subject to civil liability and employees could be awarded reinstatement of position and/or benefits, compensation for lost wages, and attorney's fees and costs associated with bringing an action against their employer for the violation.

Persons owning private property, including property open to the public, can restrict or prohibit individuals from possessing or carrying firearms on their property so long as a notice of the prohibition is posted at all entrances. If an individual in possession of a firearm disregards the notice, law enforcement can be called to remove the person as a trespasser. For properties that are protected by security features such as key cards, biometric screening devices, and turnstiles, individuals are only allowed to possess or carry firearms and other deadly weapons with the express permission of the person or entity with authority over the premises. This provision does not, however, apply to individuals possessing a firearm within their personal residence or while coming and going from their personal residence.

Senate Bill 286 reiterates prior law that a person or business entity has no duty to guard against the criminal actions of third parties, whether involving firearms or not, unless the person or business knows that the criminal acts are occurring or are about to occur and the acts pose imminent probability of harm to an invitee. The bill specifically provides that firearms are not allowed, whether on an individual's person or in their vehicle, in any place where federal law otherwise prohibits firearms or deadly weapons.

Senate Bill 286 will now proceed to the Alabama House of Representatives for their consideration. Given the majority by which the bill passed the Senate, enactment is likely.

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