

LABOR & EMPLOYMENT MINUTE

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GEORGIA'S PARKING LOT (GUN) LAW

Governor Perdue Pulls the Trigger on Employers' Rights to Limit Guns in the Parking Lot

On May 14, 2008 Governor Sonny Perdue approved a controversial law affecting the rights of employees to store firearms in their vehicles while in the employer's parking lot. The law, which is catching attention both inside and outside of Georgia, has been commonly dubbed Georgia's "Parking Lot Law".

In general terms, the Parking Lot Law (1) prohibits employers from conditioning employment on an agreement from the employee not to store a licensed concealed firearm in his or her locked vehicle at work and (2) significantly restricts an employer's right to search vehicles belonging to employees or invited guests.

Notable Exceptions:

The Parking Lot Law's scope is not as broad as it appears at first glance. In fact, most Georgia employers should have little trouble complying with the Parking Lot Law, provided they are properly informed.

First and foremost, employers who own the property on which the parking lot is located may be "bullet proof" due to established laws governing rights of private property owners.

Furthermore, the restrictions do not apply:

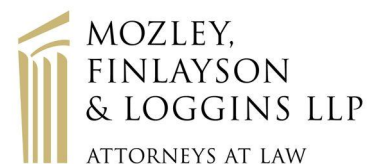
- to vehicles owned by the employer;
- where a reasonable person would believe that a search is necessary in order to prevent an immediate threat to human health, life or safety;
- where a private security officer has probable cause to believe that the employee unlawfully possesses employer property and the employee consents to the search.

In addition, where the employer provides a secured or gated parking area, a security guard may conduct regular vehicle searches if the searches are done on a uniform and routine basis.

Employer Liability:

Fortunately for Georgia's employers, the Georgia Legislature included language which limits an employers' liability for damages possibly stemming from this law. An employer may not be held liable for actions resulting from the employee's transport or use of a firearm unless the employer either committed the act or knew a criminal act would be committed. Further, an employer will not be liable for theft of the firearm from the employee's vehicle.

Finally, the Parking Lot Law specifies that an employee does not have the right to sue for a violation of the law's searching restrictions. Rather, any such action can be brought only by the Attorney General.



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Other States:

Georgia is not the only state with a law protecting the rights of gun owners in workplace parking lots. Florida also has a so called "Parking Lot Law" which fails to provide some of limitations on employer liability mentioned above. Further, it appears that Tennessee law makers may be preparing to pull the trigger on a similar law of their own. According to legislative watchdogs, other states are likely to consider and weigh in on the issue.

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