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Update on Florida's Guns-at-Work Law

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Since the publication of Dean Mead's second quarter newsletter, the new guns-at-work law, Florida Statutes § 790.251, which gives employees and invitees the right to keep firearms in a locked vehicle if they have a concealed-weapons permit (the "Act"), was challenged in the United States District Court for the Northern District of Florida. On July 28, 2008, U.S. District Judge Robert Hinkle ruled on the motion to enjoin enforcement of the Act filed by The Florida Retail Federation, Inc and Florida Chamber of Commerce.

Judge Hinkle upheld the enforceability of the Act as it relates to employees, but, notably, enjoined enforcement of the Act relating to invitees (customers and visitors). Judge Hinkle found the Act to be unconstitutional, "to the extent it compels some businesses but not others --with no rational basis for the distinction --to allow a *customer* to secure a gun in a vehicle." In the wake of the order, an eyebrow-raising inconsistency-- could gun carriers be penalized by stopping at any other place of business on the way to or from where he or she works?

Even though Judge Hinkle blocked the enforcement of the consumer part of the law, the Attorney General, National Rifle Association and business groups have said that they doubt they will appeal the ruling. It is unknown whether the Florida Chamber of Commerce and the Florida Retail Federation will appeal.

Though the law took effect July 1, a few local companies have already attempted to avoid the law altogether by claiming an exemption. Disney World asserts exception is necessary due to nightly fireworks shows at its theme parks, while Universal Orlando points to housing a work-study program on premises. The law currently provides exemptions for schools and companies that manufacture, use, store or transport explosives.

Employers, who are not exempt from the Act, should carefully review their policies or statements which relate to the maintenance of firearms by employees to ensure they do not violate the Act. Employers will also need to consider enforcement mechanisms, as necessary, which relate to customers and visitors on the property.

Dean Mead will continue to address developments on the Act as they arise and our attorneys are available to assist if you have any questions as to the applicability of the Act to your business or its effect on your policies.

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About Dean Mead:

Dean Mead is a full service commercial law firm that provides full-service legal representation to businesses and individuals throughout Florida. The firm has close to 50 lawyers practicing in Orlando, Fort Pierce and Viera.