

# Can you fire worker for bringing gun on company property?



Before terminating an employee for bringing one or more guns to work, make sure state law does not create rights allowing employees to bring them to their work location that might enable an employee to sue.

States have been enacting laws in recent years that require employers to allow employees to keep a gun locked in the employee's car on company property. A federal appeals court that covers Texas, Louisiana, and Mississippi recently ruled that an employee who was fired after he parked his truck in the company parking lot with his gun locked inside could sue the company for wrongful termination for a public policy violation created by a Mississippi statute containing one of these laws.

Employers can often feel caught between competing laws in this area. For example, the OSHA's "general duty clause" requires employers to take steps to prevent workplace violence. But state laws may give employee rights to bring firearms onto their premises that some may think creates a heightened likelihood of serious violence. Negligent hiring and retention causes of action give victims of workplace violence common law claims to make against employers.

Management and HR ultimately have to find a fine line between protecting employees from workplace violence, protecting the company from lawsuits related to any such violence and complying with state laws vesting individuals with rights that potentially challenge these obligations. Employers should take these steps:

- 1. Conduct training on maintaining a workplace free from violence.** You can and should still inform your employees that violence is unacceptable and install contingency plans on not only how to prevent it but also what to do in an "active shooter" situation. Training should make reference to exceptions based on any laws that allow employees to keep guns locked in their cars on company property.
- 2. Employee handbooks should prohibit weapons, including guns, in the areas where employees actually work,** but also contain language referring to any state law rights to allow guns in locked cars.
- 3. Consider state law.** If guns are involved with an employment decision, especially a termination, all the facts need to be considered. Review with employment counsel any such decisions related to guns in locked cars. State laws do provide employers with defenses in such situations.
- 4. Avoid politically charged discussions with employees,** particularly on gun control issues. A seemingly innocent observation or comment may be interpreted as evidence that a discipline or termination was really due to the employee's rights to keep a firearm in his car. Because some state laws prohibit inquiry as to legal

firearm status, the line between a heated discussion and a prohibited inquiry can be a very thin one.

To discover the law in your state on whether you can prohibit employees from bringing guns onto company property, go to [safetysummit.blr.com/weapons-in-the-workplace](https://safetysummit.blr.com/weapons-in-the-workplace).

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