

# CARLTON FIELDS

ATTORNEYS AT LAW

## *Carlton Fields Practice Alert*

### **BUSINESSES CANNOT PROHIBIT EMPLOYEES, CUSTOMERS, OR INVITEES FROM KEEPING LEGAL FIREARMS IN THEIR VEHICLES**

Florida Statute § 790.251, which took effect on July 1, 2008, provides that businesses cannot prohibit employees, customers, and other invitees from possessing legal firearms locked inside or locked to their vehicles in an employee or customer parking lot, as long as the firearms are out of sight. The statute is quite controversial and a lawsuit has been filed challenging the enforceability of the law.

The statute also does not allow businesses to ask their employees, either orally or in writing, about the presence of firearms inside such vehicles. A business cannot search a vehicle to determine if there is a firearm in it. **Any Florida business with a handbook policy or other corporate policy dealing with firearms on its premises should examine that policy to make sure it is in compliance with the new law.**

This statute does have some limitations. For example, the definition of the term "employee," as used in the new law, includes only individuals with concealed weapons permits, which, read in the context of the "out of sight" vehicle storage concept, may suggest a legislative intent to extend rights under the statute only to employees with such permits. It is easy in Florida, however, for someone who is not a felon to obtain a permit, so this qualification does not provide much comfort to employers.

The new gun law does not apply to any schools, correctional institutions, nuclear power facilities, businesses that deal primarily with explosive materials regulated under law, or businesses conducting substantial activities involving national defense, aerospace, or homeland security. It also does not apply to property on which possession of a firearm is prohibited based on federal law, state law, or a contract with the federal government. Finally, the new law does not apply to vehicles owned, leased, or rented by a business.

The Florida Attorney General can sue businesses that violate Florida Statute § 790.251, as can the person whose rights under the statute were violated. The statute, however, does limit the liability for a business's action (or inaction) in complying with the new law. The statute also provides mechanisms for how it can be enforced.

If you have any questions about this statute or other employment issues, please contact one of the labor attorneys pictured below or visit [www.carltonfields.com/labor](http://www.carltonfields.com/labor)



James R. Wiley  
813.229.4325  
[jwiley@carltonfields.com](mailto:jwiley@carltonfields.com)



John P. McAdams  
813.229.4320  
[jmcadams@carltonfields.com](mailto:jmcadams@carltonfields.com)

This publication is not intended as, and does not represent, legal advice and should not be relied upon to take the place of such advice. Since factual situations will vary, please feel free to contact a member of the firm for specific interpretation and advice if you have a question regarding the impact of the information contained herein. The hiring of a lawyer is an important decision that should not be based solely upon advertisements. Before you decide, ask us to send you free written information about our qualifications and experience.