

# Guns in the Workplace: An Employer's Choice

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With guns prominently in the headlines lately, employers may be wondering what rights they have with respect to employees bringing and carrying handguns into the workplace. Regardless of their position on the current firearms debate, the good news for employers is that they have a lot of discretion in choosing if, and how, employees may bring guns to work.

## The Basics

In 2015, the Texas Legislature passed a bill to allow concealed handgun permit holders to carry handguns openly. The bill took effect on January 1, 2016. A License to Carry (LTC) is still required to carry a handgun, either openly or concealed, in public. However, for guns in plain view, the handgun must be carried in a shoulder or belt holster. See statute: Texas Penal Code [Section 46.02](#).

Despite the ability to openly carry handguns in most places, there are still some limitations. [Section 46.03](#) of the Texas Penal Code prohibits weapons under certain conditions, including firearms in places such as schools, racetracks, polling places, government courts and court offices, airports, places that sell alcohol, hospitals, and correctional facilities, among others. Review the full text of the statute for the complete list and specific conditions here: [Section 46.03](#).

## On the Premises

While state law allows licensed handgun owners to carry firearms in public, private employers, with few exceptions (see [Section 46.03](#) above), may choose to allow or forbid guns in the workplace, for both employees

and members of the public.

Regardless of an employer's position on the subject, implementing a gun policy that clearly outlines what is and is not allowed is preferred. If employers choose to prohibit firearms, they are required to provide either oral or written communication to individuals. Of course, providing written notice to employees is best.

An employer's handbook or set of rules should include a guns and weapons policy defining what weapons the employer will not allow in the workplace. As with other disciplinary matters, the consequences of failing to comply with a weapons policy are left up to

each employer.

In addition to including restrictions on firearms in a written policy applicable to employees, if employers wish to restrict the public from entering the property while in possession of firearms, they are required to post signs clearly visible to the public at each entrance to the property. Different statutes address the sign requirements for concealed handguns ([Section 30.06](#) of the Texas Penal Code) and open carry weapons ([Section 30.07](#) of the Texas Penal Code). Texas law regulates not only the wording on the signs, but the size and style of the letters as well. The signs must be in contrasting colors with block letters at least once inch in height. In addition, the signs must be



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both in English and Spanish.

If an employer wishes to ban both types of handguns, both signs must be posted in order to comply with state law.

The sign banning concealed handguns must contain the following language: "Pursuant to Section 30.06, Penal Code (trespass by license holder with a concealed handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a concealed handgun."

The sign banning open carry handguns must read: "Pursuant to Section 30.07, Penal Code (trespass by license holder with an openly carried handgun), a person licensed under Subchapter H, Chapter 411, Government Code (handgun licensing law), may not enter this property with a handgun that is carried openly."

### **In Vehicles**

Employers may limit weapons in their company owned vehicles. Of course, such rules should be included in the employers' written policies. However, employers may not prohibit handguns in privately owned vehicles. This is so even if the vehicles are parked on the employers' premises.

[Section 52.061](#) of the Texas Labor Code states that neither a public nor private employer may prohibit an employee who holds a License to Carry from transporting or storing a firearm in a locked, privately owned motor vehicle in a parking lot, parking garage, or other parking area the employer provides for its employees.

### **Property Owner vs Business Owner**

If the employer owns the property on which the business is located, the guidance above holds true.

Employers are free to choose whether employees can bring firearms to work. However, if the employer does not own the property on which the business is housed, the property owner's rights transcend those of the business owner. This means that the property owner may decide to prohibit weapons, but must meet the statutory requirements and provide written notice.

If the employer does not own the property, and the property owner has communicated no restrictions on firearms, the employer can still make the decision that is best for its business, and may choose to prohibit employees from bringing guns to work. In general, employers are in control of the rules of their workplaces.

### **In Conclusion**

Many behaviors that are perfectly legal outside of the workplace, such as consuming alcohol and using cell phones for example, may be restricted inside the workplace. The same holds true for handguns. With few exceptions, employers may dictate whether or not employees may bring handguns onto the employer's premises, whether to permit them in company vehicles, and under what circumstances, if at all, employees may display them. While much of this is handled by each employer's policies, it is important to be aware of the laws that may restrict or limit an employer's choice. 🇹🇽