



COLUMBUS | CLEVELAND
CINCINNATI-DAYTON
MARIETTA

BRICKER & ECKLER LLP
100 South Third Street
Columbus, OH 43215-4291
MAIN: 614.227.2300
FAX: 614.227.2390

www.bricker.com
info@bricker.com

MEMORANDUM

TO: Ohio Manufacturers' Association
FROM: Bricker & Eckler LLP
DATE: December 9, 2016
RE: Senate Bill 199

On December 8, 2016, the House removed the controversial provisions of Senate Bill 199 that proposed to amend Ohio's employment discrimination laws, R.C. Chapter 4112, to create a new protected class – concealed carry licensees or their equivalent.

Instead, S.B. 199 now prohibits business entities, property owners, and public and private employers from prohibiting a concealed carry licensee from transporting or storing a firearm or ammunition in their privately-owned vehicles if: (1) the firearm and ammunition remains inside of the person's privately-owned vehicle if the person is inside the vehicle, or the firearm and ammunition is locked in the trunk, glove box, or other container or compartment in the vehicle; and (2) the vehicle is in a location where it is otherwise permitted to be. *See* proposed R.C. 2923.1210(A).

The bill lacks any guidance on whether and how an employer can confirm if an individual is a concealed carry licensee and is otherwise complying with the above provisions of this law.

Impact on Weapons Policies

Notwithstanding the removal of the discrimination provisions, S.B. 199 still takes away or, at the very least, severely restricts an employer's right to regulate the presence of weapons on their private property.

Under the bill, employers will no longer be able to ban concealed carry licensees from transporting or storing firearms in their privately-owned vehicles, so long as the licensee complies with the above provisions. This creates risk and interferes with an employer's ability and obligation to provide a safe workplace for their employees.

The bill does continue to permit an employer to ban individuals from possessing weapons inside the employer's buildings or employer-owned or leased vehicles. Employers may also ban non-concealed carry licensees from transporting or storing firearms in their vehicles.

Immunity

While the bill proposes to provide business entities, property owners, and public and private employers immunity in a civil action for damages, injuries, or death resulting from a person's actions involving a firearm that is transported or stored under the new law (*see* proposed R.C. 2923.1210(B)), this immunity would not prevent employees from filing workers' compensation claims for injuries suffered as a result, nor would it prevent citations or penalties under the Occupational Safety and Health Act ("OSHA"), which requires employers to provide their employees with a safe working environment.

Miscellaneous

The bill still appears to be internally inconsistent regarding what an employer can lawfully ban. While proposed R.C. 2923.1210(A) prohibits employers from establishing a policy that prohibits concealed carry licensees from possessing a firearm in a motor vehicle located on the employer's property, R.C. 2923.126(C)(1), which has not been amended, allows private employers to prohibit "...the presence of firearms on the employer's premises or property, including motor vehicles owned by the private employer."

Finally, employers will need to be mindful when taking adverse action against an employee who is protected by this new law. Courts in other states have recognized wrongful discharge in violation of public policy claims based on similar laws.

Unless vetoed by the Governor, the bill will become law 90 days after his signature, which is estimated to be late March 2017.