

Employers Take a Shot at Liability Under New Law

By Reg P. Wydeven
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While flipping through the channels the other night, I came across one of my all-time favorite action flicks: 'Die Hard.' The movie stars Bruce Willis as Officer John McClane, an off-duty New York cop visiting his wife in Los Angeles to attend her company's Christmas party in the penthouse of the Nakatomi Plaza skyscraper.

Of course, down-on-his-luck McClane's party is crashed by international terrorists bent on stealing \$600 million worth of bonds locked in the Plaza's vault. While fighting the terrorists, McClane loses his shoes, steps on broken glass, gets shot at and beat up, and eventually jumps off the roof to avoid an exploding helicopter. In the film's climax, McClane confronts the lead terrorist, pretending to be unarmed. He sneakily duct-taped a handgun to his back that he whipped out to shoot the bad guy, who plunged out the window and fell to his death.

The scene is one of the greatest in cinema history. The cunning and ingenuity of the blue collar, All-American McClane triumphs over the intellectual but arrogant European criminal. While Officer McClane's creativity saved the day in Nakatomi Plaza, he probably violated the building's policy against carrying concealed weapons.

Earlier this month, Governor Walker signed into law a bill making Wisconsin the 49th state to allow individuals to carry concealed weapons. The law, which goes into effect on November 1, 2011, provides that residents 21 years and older can carry a concealed weapon anywhere in the state, with the following exceptions: schools, airports (but only beyond security checkpoints), police stations, sheriff's offices, prisons or jails, courthouses, and government offices that have electronic screening devices. Also excepted are businesses where federal law prohibits guns, such as chemical or nuclear plants.

Applicants hoping for a license to carry a concealed weapon must pass a background check, but will be denied if they are prohibited from carrying a gun by federal or state law, such as with a convicted felon.

Obviously, the law has inspired strong feelings both for and against carrying concealed weapons. One lesser known aspect of the law is how it applies to employers. Under the law, companies can prohibit their workers from carrying weapons, whether concealed or not, while at work. Employers can't, however, prevent employees from storing weapons in their vehicles, even if it is a vehicle used for work or parked in the employer's parking lot.

In an interesting twist, however, employers who don't like guns may still want to allow their employees to pack heat. Those employers that do allow employees to carry concealed weapons are given immunity from lawsuits for any liability resulting from the allowance of concealed weapons. Employers that prohibit employees from carrying concealed weapons run the risk of having to prove they weren't negligent if an injury results from a gun at their workplace.

While employers are given immunity if they allow their employees to carry concealed weapons, no such immunity is given if businesses prohibit customers or other visitors from strapping'. To do so, businesses must post signs at least 5x7 inches large in prominent places near all entrances and where persons entering the building can be expected to see the sign. Visitors who violate the ban can be arrested under criminal trespass laws.

All employers are subject to the concealed carry law regardless of the number of employees they have.

So employers are encouraged to revisit their workplace policies regarding weapons and employee background checks prior to the new law going into effect. Without clear policies, businesses might feel a bit like the Old West. As Officer John McClane would say, "Yippee ki-yay."

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