



A Law Firm in the People Business

No Weapons Policies in Georgia

On May 14, 2008, the governor of Georgia signed into law an act that prohibits most Georgia employers from enforcing a "no weapons" policy in their workplaces by searching an employee's private vehicle. Georgia employers are also prohibited from conditioning employment on employees' agreeing not to bring guns onto company property.

Note, however, that the new law only protects an employee's right to have a gun in his or her car; it does not permit the employee to bring that gun into the workplace. Also, the new law does permit vehicle searches if (i) the employee grants permission, or (ii) the employer determines that a serious threat to human life exists.

The new law contains various exceptions, including an exception for employers who own or control access to the property on which their worksite is located. And it provides employers with some protection against legal liability related to acts their employees might carry out with the guns in their cars.

Please contact Megan Gideon at 404.888.8849 if you have questions about this new law and its requirements.

HEART ACT CREATES NEW MILITARY LEAVE RULES

On June 17, 2008, President Bush signed the Heroes Earnings Assistance and Relief Tax Act of 2008 ("HEART Act"). The HEART Act expands the rights of employees on military leave and creates new opportunities for employers to voluntarily provide benefits to employees who are killed or become disabled in military service.

- **Mandatory Death Benefits.** The HEART Act requires qualified retirement plans to treat employees who die in military service as if they had returned to employment before death. For example, consider a retirement plan that provides for 100% vesting if a participant dies while actively employed. Under the HEART Act, a participant who dies while in military service must also be 100% vested. These rules are effective for deaths occurring after January 1, 2007, and plans will need to be amended to incorporate these rules by the end of the 2010 plan year.
- **Mandatory Retirement Plan Distribution Rights.** Beginning with the 2009 plan year, qualified retirement plan participants who are on active military duty for more than 30 days must be treated as having terminated employment for purposes of retirement plan distributions. For example, a participant in a 401(k) plan would be eligible to receive a distribution of his or her account once he or she completed 30 or more days of active military service.

The HEART Act also makes permanent the relief from the 10% early withdrawal excise tax for certain distributions to participants in military service. This relief was originally included as part of the Pension Protection Act of 2006.

- **Optional Benefit Accruals for Death or Disability.** The HEART Act permits employers to allow additional retirement benefit accruals for participants who die or become disabled while in military service. Specifically, the employer can choose to treat these participants as if they had returned to employment on the day before death or disability and allow benefits to accrue through that date. If implemented, plans will need to be amended to provide for these additional accruals by the last day of the 2010 plan year.
- **Optional Health Spending Account Distributions.** The HEART Act also allows employers to permit penalty-free distribution from health flexible spending accounts ("FSAs") for employees called to active military duty for a period of more than 179 days.

These are just a few of the employee benefit provisions of the HEART Act. If you would like assistance with taking advantage of, and complying with, this new legislation please contact Megan Gideon (404.888.8849), Toby Walls (404.888.8870) or Ed Johnson (404.888.8875).

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