

Hidden Guns, Hidden Costs: The Legalization of Concealed Weapons Is Bad for Business

“Unfortunately, there is no end to the potential problems concealed weapon laws pose for employers.”

Alarms should be sounding in every business in Wisconsin. If a bill to legalize the carrying of concealed weapons (CCW) becomes law, every business executive, owner, and employer will be exposed to new and potentially devastating risks and costs.

Distressingly, just such a bill has already been introduced in the legislature. For more than 130 years, the state of Wisconsin has prohibited citizens from carrying concealed weapons in public. Nearly 70 percent of people support our current law, yet, at the behest of the pro gun lobby, some Madison lawmakers are attempting to overturn the prohibition, thus legalizing the carrying of concealed weapons.

Wisconsin is not unique. Since 1987, state-level CCW laws have been a top priority of the national gun lobby. Having discovered that CCW laws created an “economic windfall in both gun sales and in classes required to obtain CCW permits,”¹ the gun lobby became relentless in its efforts to get CCW laws in every state, even though evidence continued to mount, proving that CCW laws were irresponsible and dangerous.

What has also grown throughout the years is evidence that businesses will suffer as a direct result of a CCW law. Years ago, a business executive could institute a no-weapons policy in response to the passage of such a law and confidently assume the law would have no further impact. That is no longer true. Now, the passage of a CCW law guarantees that every executive, owner or employer will be forced directly between a rock and a hard place and that the viability of every business will be at risk.

This document provides a brief overview of some of the costs and risks businesses will encounter, as explained by experts from the fields of academic research, employment law, human resource management, insurance, workplace violence, and business, among others. The document also uses the words of experts to explain, more generally, the dangers of guns in the workplace and of CCW laws. The variety of perspectives brought by these experts converges on one point: Carrying concealed weapons laws are bad for business.

Guns in the Workplace

The most obvious result of a carrying concealed weapons (CCW) law is that there will be more guns in public places, such as banks, malls, business offices, parks, grocery stores, restaurants, manufacturing plants and churches—the places people visit and work. Proponents of CCW laws suggest that people will feel safer in these public settings because a population of armed “good guys” will deter or stop crime. Research proves this theory false.

- A recent study published in the *American Journal of Public Health* showed that the risk of an employee being murdered in a workplace that allowed guns was nearly seven times greater than in a workplace that prohibited weapons.²
- According to the U.S. Department of Labor, at least 75% of workplace homicides were committed with firearms.³
- Approximately two-thirds of all Americans said that they would feel less safe in a public place that allowed concealed weapons.⁴

Costs and Risks to Employers

If an act or threat of violence occurs on their premises, businesses could be exposed to devastating costs.

- “[O]ne incident of workplace violence can have enormous impact on a business, affecting everything from your workers’ compensation costs to your sales to your employee productivity to your company’s morale. Indeed, even your company’s reputation could be ruined.”⁵
- In a *USA Today* article, which summarizes the profound impact workplace violence has on both the employees and the business, a psychologist who specializes in workplace violence states, “No one is ever the same, no organization is ever completely the same after a tragedy like this.”⁶
- Beyond the human costs, a report from the Occupational Safety and Health Administration describes some of the economic losses businesses suffer as a result of workplace violence. OSHA estimates that losses can be “measured in the billions of dollars,” when factors such as lost wages, “lost productivity, legal expenses, property damage, diminished public image, and increased security are considered.”⁷
- Although many companies ultimately survive a workplace shooting, some, like the San Francisco law firm of Pettit & Martin, do not. A former Pettit partner said that after the shooting, “There was just sort of this sadness, this pall in the air.”⁸

Either decision—to allow or prohibit guns on the premises—will likely be used to link employers to various causes of liability.

- Every employer should be aware that “nearly all fatal workplace violence incidents have been followed by lawsuits brought by the aggrieved families of the victims.”⁹
- Employees, clients, or visitors could claim that they were denied the ability to protect themselves, if an employer bans guns. One senator from Utah said, “Gun bans in public businesses open a ‘big liability issue’ for the owners. A person has a right to protect himself or herself with firearms...”¹⁰
- Although there is some liability risk in prohibiting guns, it appears as if the risk of allowing guns is even greater. “Permitting concealed weapons,” notes the director of a business support network, “presents a minefield of liability...”¹¹
- The author of a *University of Memphis Law Review* article similarly concludes, “...more guns usually mean more violence, or, at a minimum, more liability from an employer’s standpoint.”¹²
- A security consultant notes, “If I were an employer and looked at civil case law, I’d be very concerned about employees bringing weapons to work.... The civil courts have clearly determined that the employer has an obligation to provide a safe and secure workplace.”¹³
- Furthermore, a business that allows guns might not be able to rely on its insurance to provide coverage. “If a person were to sustain bodily injury from a gun, an insurance company might deny the claim if the business permitted guns on the premises. The insurance company would argue that by allowing guns on the premises, the insured acted intentionally or should have expected that someone would be injured.”¹⁴

Even if an act of workplace violence does not occur at a particular business, it will suffer consequences related to a CCW law. If CCW is legalized, every employer will be forced to make a decision about whether to allow or prohibit guns. Either decision will push the employer into the volatile and public debate regarding issues such as gun rights, personal property rights, and workplace safety, among others.

- A *Creighton Law Review* article noted, “The proliferation of concealed weapons legislation has created numerous complex legal and practical difficulties for employers and business owners.”¹⁵
- A law memo written shortly after Missouri passed its CCW law warned businesses of “the hornet’s nest of issues that concealed-carry presents.”¹⁶
- When ConocoPhillips decided to prohibit guns on their premises, the National Rifle Association (NRA) labeled it a “vicious campaign to gut the Second Amendment.”¹⁷ Even though spokespeople for ConocoPhillips affirmed their support of gun owners and the Second Amendment and indicated that their sole reason for keeping guns off their property was workplace safety,¹⁸ the NRA claimed that ConocoPhillips was part of the “elitist corporate gun-ban conspiracy.”¹⁹ The NRA’s executive vice president also said: “We’re going to make ConocoPhillips the example of what happens when a corporation takes away your Second Amendment rights. If you are a corporation

that's anti-gun, anti-gun owner, or anti-Second Amendment, we will spare no effort or expense to work against you..."²⁰

In addition to the public relations nightmare resulting from the passage of a CCW law, every business will be vulnerable to new costs and risks. Regardless of an employer's weapons policy, businesses could face any number of expenses, such as increased legal, insurance, and security costs.

- The *Denver Business Journal* reported, "Lawyers are encouraging employers to consider everything from their legal liabilities to worker's compensation insurance when deciding how to deal with the state's new concealed weapons laws."²¹
- Although CCW laws raise numerous questions for employers, one thing is clear: These laws have become the "golden lamb of the legal system."²²
- A *Thompson Law Review* article notes that the "concealed weapons statute further muddies the already murky water of employer liability."²³
- A lawyer from another state similarly observes that a CCW law "raises a number of questions for...employers. Unfortunately, there will be few clear answers until the law is actually tested in court."²⁴
- Even in states that have had a CCW law for years, unanswered legal issues abound. A spokesperson for the Oregon Attorney General stated, "This is an area of the law in which we don't currently have a significant amount of jurisprudence or guidance from the court, and because of that, the likelihood of litigation is enhanced."²⁵
- Additionally, a CCW law "opens up a whole box of unanswered questions," with regard to insurance rates and coverage.²⁶

Businesses Cannot Escape the Risks of CCW

The "immunity from liability" provisions included in some CCW bills offer, at best, questionable relief to businesses.

- In discussing the Ohio CCW law, which includes an immunity provision, an attorney notes several important limitations and concludes: "So the immunity is far from ironclad."²⁷
- Another lawyer from Ohio warns, "Immunity provisions frequently become the subject of intense legal battles and the extent of the protection that the immunity provision will provide is untested...."²⁸
- Even if immunity shields a business from some lawsuits, the obligation to institute policies and procedures that will prevent financial losses, injuries, and deaths remains. According to OSHA, "Employers have both a legal duty and a moral obligation to provide a safe workplace."²⁹

Although most CCW bills and laws include a list of types of businesses or categories of organizations at which guns are still prohibited, these “exemptions” should bring no comfort; nearly all exclusions are challenged in future legislative sessions, and fighting to maintain exempt status, year and year, is frustrating and costly.

- In just one year, the pro gun lobby fought for removal of restrictions or weakening of the law in more than 80% of the states that already had permissive CCW laws.
- Efforts to weaken Ohio’s CCW law began almost immediately. Several bills have been introduced that would negate the “carefully negotiated restrictions on hidden guns in public places.”³⁰ For example, a bill introduced by Representative Tom Brinkman would “allow carrying with no permit,” and it would “reverse restrictions against carrying concealed guns on college campuses, in day-care centers, and in cars traveling the highway.”³¹
- Since the legislature passed a CCW bill in Minnesota, churches there have been embroiled in a two-year legal battle, fighting for the right to control their own property and worship without interference from the state. A recent ruling by a district judge stated: “The 2005 [CCW] Act impermissibly intrudes into the free exercise of religion by arbitrary definitions, which dictate restrictions on the use of church property for worship, childcare, parking and rental space.”³²
- Although the initial CCW bill in Arizona prohibited concealed weapons in bars and restaurants that serve alcohol, the pro gun lobby has returned in legislative session after legislative session, trying to eliminate this restriction. The gun lobby’s attempts have forced the bar, restaurant and hotel owners, as well as all major police associations, to spend resources fighting this legislation.³³

Concealed Weapons Legislation

Proponents of laws to legalize the carrying of concealed weapons (CCW laws) claim that more guns will increase personal safety and decrease crime. They’re wrong.

- More generally, research has shown that guns do not increase personal safety; in fact, “the net impact of owning a handgun or having a family member own a handgun is to increase appreciably—not decrease—the risk of violent death.”³⁴
- One economist, John Lott, came to the conclusion that more guns equals less crime, but the vast majority of researchers disagree. In 1995, one study found: “Advocates of shall issue laws argue that they will prevent crime, and suggest that they have reduced homicides in areas that adopted them. [Our] analysis provides no support for the idea that the laws reduced homicides; instead, it finds evidence of an increase in firearm murders.”³⁵ Much additional research yielded similar results. Therefore, not surprisingly, a 2003 study concluded: “[T]he weight of the evidence is now firmly behind those who have found that RTC [right-to-carry or CCW] laws do not reduce, and may even increase, the overall level of crime.”³⁶

The people of Wisconsin, including gun owners, do not want the carrying of concealed weapons to be legalized.

- In Wisconsin, only 27% of those surveyed were in favor of citizens being allowed to carry concealed weapons. Furthermore, only 17% believed that a CCW law would reduce crime.³⁷

CCW Is Bad for Business

Research, public opinion, experience and common sense are all in agreement: Legalizing the carrying of concealed weapons is terrible public policy. For businesses in particular, both the certain and potential costs associated with CCW are staggering, and the risks are enormous.

- “Unfortunately, there is no end to the potential problems concealed weapon laws pose for employers.”³⁸
- It is employers’ duty to provide “a workplace free of the recognized hazards associated with workplace violence incidents, specifically, firearms on the premises....Legislating the permissibility of loaded firearms at work is not only blatantly irresponsible, but overtly compromises the aforementioned employers’ duty.”³⁹
- Without a doubt, a law legalizing the carrying of concealed weapons in public is a no-win policy for businesses.

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⁵ Michael Capozzi, “Insuring the Treat [sic] of Workplace Violence – Risk in Focus,” *Risk & Insurance*, Oct. 15, 2001. Accessed at www.findarticles.com/p/articles/mi_m0BJK/is_14_12/ai_83804364, on March 4, 2005.

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⁷ “Workplace Violence Awareness and Prevention,” OSHA and The Long Island Coalition for Workplace Violence Awareness and Prevention. Accessed at www.osha-slc.gov/workplace_violence/wrkplaceViolence.PartI, Feb. 3, 2005.

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