

BILL ANALYSIS

C.S.S.B. 730
By: Hegar
Public Safety
Committee Report (Substituted)

BACKGROUND AND PURPOSE

Some employers have adopted policies prohibiting the storage of firearms on company property, even those stored in locked vehicles. Such policies rob employees of their rights under the Second Amendment to the United States Constitution and their ability to protect themselves as they travel to and from work.

C.S.S.B. 730 prohibits an employer from adopting policies to prohibit employees from storing legal firearms or ammunition in locked privately owned vehicles. The bill provides that employers retain the ability to prohibit firearms in the office or in company vehicles, and may still bar firearms from their parking lots provided those parking lots are fenced, access to them is controlled and the employer provides a reasonably close alternative parking area or storage area. The bill protects employers from any civil liability for personal injury, death, property damage, or any other damages resulting from or arising out of an occurrence involving a firearm or ammunition transported except as otherwise provided by the bill. The bill does not apply to places where firearms are prohibited by state or federal law.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.S.B. 730 amends the Labor Code to prohibit a public or private employer from prohibiting an employee who holds a license to carry a concealed handgun, who otherwise lawfully possesses a firearm or who lawfully possesses ammunition, from transporting or storing the firearm or ammunition in a locked, privately owned motor vehicle. The bill provides that an employer or the employer's principal, officer, director, or agent is not liable in a civil action, other than a civil action based on a violation of the prohibition, for personal injury, death, property damage, or any other damages resulting from or arising out of an occurrence involving a firearm or ammunition lawfully transported or stored in the privately owned motor vehicle. The bill provides that an employer or the employer's agent is not liable in a civil action for damages resulting from or arising out of the theft of the firearm or ammunition or the use of the firearm or ammunition by a person other than the employee authorized to transport or store a firearm or ammunition. The bill provides that the presence of a firearm or ammunition transported or stored in this manner and in the specified location does not by itself constitute a failure to provide a safe workplace. The bill provides that, for purposes of the restriction on prohibiting employee access to or storage of firearms or ammunition, a public or private employer or the employer's principal, officer, director, or agent does not have a duty to patrol, inspect, or secure any parking lot, parking garage, or other parking area the employer provides for employees or any privately owned motor vehicle located in such a parking lot, parking garage, or other parking area; or to investigate, confirm, or determine an employee's compliance with laws related to the transportation and storage of a firearm or ammunition in a privately owned motor vehicle.

C.S.S.B. 730 establishes that its provisions do not prohibit an employer from adopting a policy requiring that any firearm, while lawfully on property controlled by the employer, must be stored in a locked, privately owned motor vehicle and hidden from plain view or locked in a case or container located in the vehicle while the vehicle is unattended. The bill establishes that its provisions do not prohibit an employer from prohibiting an employee from transporting or storing a firearm in a locked, privately owned motor vehicle in an employer-provided parking area if access to the parking area is restricted or limited through the use of a fence, gate, security station, sign, or otherwise restricts or limits general public access and if the employer provides an alternative location on the property for the employee to securely store the employee's unloaded firearm or an alternative parking area reasonably close to the main employee parking area in which employees and other persons may transport or store firearms in locked, privately owned motor vehicles. The bill establishes that its provisions do not prohibit an employer from prohibiting an employee from possessing a firearm on the premises of the employer's business. The bill defines "premises," by reference, as a building or a portion of a building.

C.S.S.B. 730 makes its provisions inapplicable to a vehicle owned or leased by a public or private employer and used by an employee in the course and scope of the employee's employment, unless the employee is required to transport or store a firearm in the official discharge of the employee's duties. The bill establishes that its provisions do not authorize a person who holds a license to carry a concealed handgun, who otherwise lawfully possesses a firearm or ammunition, to possess a firearm or ammunition on any property where the possession is prohibited by state or federal law. The bill makes its provisions inapplicable to a school district; an open-enrollment charter school, a private school, or property owned or leased by an employer who is required to submit a risk management plan under the federal Clean Air Act and on which the primary business conducted is the manufacture, use, storage, or transportation of hazardous, combustible, or explosive materials regulated under state or federal law.

C.S.S.B. 730 amends the Government Code to define "premises" for purposes of the right of an employer to prohibit a person who is licensed to carry a concealed handgun from carrying a concealed handgun on the premises of the employer's business.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.S.B. 730, in the provision restricting the prohibition against employee transportation or storage of certain firearms or ammunition in a locked, privately owned vehicle, removes the specification included in the original that the privately owned vehicle is located in a parking lot, parking garage, or other parking area the employer provides for employees on the employer's property.

C.S.S.B. 730 differs from the original by adding a public or private employer's principal, officer, or director to the persons who are not liable in a civil action for personal injury, death, property damage, or any other damages resulting from or arising out of an occurrence involving a firearm or ammunition lawfully transported or stored in an employee's privately owned vehicle. The substitute differs from the original by specifying that the provision excluding certain persons from liability in a civil action does not apply in a civil action based on a violation of the restriction on prohibiting employee transportation or storage of certain firearms or ammunition, rather than in cases of gross negligence as in the original.

C.S.S.B. 730 adds a provision not included in the original providing that a public or private employer or the employer's principal, officer, director, or agent does not have a duty to patrol,

inspect, or secure any employer-provided parking area or any privately owned motor vehicle located in such a parking area or to investigate, confirm, or determine an employee's compliance with laws related to the transportation and storage of a firearm or ammunition in a privately owned motor vehicle.

C.S.S.B. 730 adds a provision not included in the original making its provisions inapplicable to property owned or leased by an employer who is required to submit a risk management plan under the federal Clean Air Act and on which the primary business conducted is the manufacture, use, storage, or transportation of hazardous, combustible, or explosive materials regulated under state or federal law.