

Health and Safety Seminar

March 12



Arkansas
Environmental
Federation

Industries for the Environment

**ARKANSAS
CONCEALED
CARRY**

WHAT IT MEANS FOR THE WORKPLACE

CONSTITUTIONAL PROMISES

A WELL REGULATED
MILITIA, BEING
NECESSARY TO THE
SECURITY OF A FREE
STATE, THE RIGHT OF
THE PEOPLE TO KEEP
AND BEAR ARMS, SHALL
NOT BE INFRINGED.

~ SECOND AMENDMENT,
UNITED STATES CONSTITUTION

“The citizens of this State shall have the right to keep and bear arms, for their common defense.”

Article II, § 5 of the
Arkansas
Constitution

FEDERAL GUN RESTRICTIONS

- Serial numbers required
 - Gun Control Act of 1968
- No new fully automatic machine guns after 1986 & all transfers need government approval
 - Firearm Owners Protection Act
- Gun-Free School Zones Act (1990)
- Brady background checks (1993)
- Violence Against Women Act: No guns for domestic abusers

ARKANSAS “SHALL ISSUE” STATE

- The State of Arkansas must issue a license to anyone who meets the legal qualifications.
- 5-73-309(1)

CONCEALED CARRY LICENSE REQUIREMENTS ARKANSAS

- Citizen or permanent resident
- Arkansas resident for 90+ days (except military)
- 21+ (18 if military)
- “Mentally firm”
- Not a felon/ No outstanding warrants
- Background check through Arkansas State Police & FBI
- Not a habitual substance abuser
- Statement of Allegiance to Arkansas & US Constitutions
- Training Requirements
 - A.C.A. § 5-73-309

CONCEALED CARRY LICENSE TRAINING REQUIREMENTS

- Course approved by Department of Arkansas State Police
- By registered Firearms Safety Training Instructor
- 5 hours of instruction
 - Avoiding victimization
 - Laws
 - Encounters with Law Enforcement
 - Types of guns
 - Cleaning and Storage
 - Proficiency at “live-fire” demonstration
 - State Police Concealed Handgun Carry License Rule 13

CONCEALED CARRY LICENSE RESTRICTED VS. UNRESTRICTED

- Restricted License
 - Concealed Carry any legal handgun other than a semiautomatic
- Unrestricted License
 - Concealed carry any legal handgun, including a semiautomatic
- Must show proficiency with the relevant type of handgun
 - A.C.A. § 5-73-310

CONCEALED CARRY LICENSE RECIPROCALITY

- A concealed carry license in any other state makes it legal to carry in Arkansas
 - A.C.A. § 5-73-321
- An Arkansas concealed carry license make it legal to carry in certain other states



Source: NRA

ENHANCED CONCEALED CARRY IN ARKANSAS

- Allows holder to concealed carry in more locations (A.C.A. § 5-73-322)
- Requires additional training:
 - 2 hours live-fire testing
 - Multiple distances with 70% accuracy
 - 5 hours classroom instruction
 - Relevant law
 - Self Defense
 - Safety
 - Interaction with Law Enforcement
 - When in an “enhanced” location, handgun must be concealed at all times (State Police Rule 7.6)

OPEN CARRY IN ARKANSAS

- A confusing legal journey
- *Taff v. State*, 2018 Arkansas Court of Appeals:
 - A police officer did not have reasonable suspicion (legal basis) to stop and search a man for carrying a visible pistol
 - “the possessor of a handgun must have an unlawful intent to employ it as a weapon against a person in order to make that possession a criminal act.”
- But consider:
 - Purposely creating apprehension of immediate physical harm, including displaying a firearm in a dangerous way, can lead to criminal assault charges
 - A.C.A. § 5-13-204 ff.

“PERMITLESS CARRY”

- No licensing requirement to open carry
- “When upon a journey”
 - A.C.A. § 5-73-120 states it is legal to carry a weapon when upon a journey beyond the county in which a person lives. This *seems* to mean that it is legal to transport a gun, even without a concealed carry license.
 - Attorney General Leslie Rutledge summarized:
 - A person is permitted to carry a handgun, knife, or club in a vehicle when traveling outside his or her county, regardless of whether the weapon is concealed or in plain view in the vehicle and regardless of whether the person has a license to carry a concealed handgun;
 - If the person takes the weapon out of the vehicle, however, the journey exception no longer applies and the person will risk committing the offense of “carrying a weapon”;
 - So long as he or she has no intent to unlawfully employ the handgun, knife, or club against another person, the person may lawfully carry the weapon outside the vehicle. To lawfully carry a concealed handgun, however, it will be necessary to obtain a concealed-carry license.
 - Ark. Op. Atty. Gen. No. 2015-064

PROHIBITED PERSONS

- Cannot possess a gun in Arkansas, even at home: (A.C.A. § 5-73-103)
 - Felon
 - Mentally ill (according to a court)
 - Under 18 years old
 - (except supervised recreational shooting) (A.C.A. § 5-73-119)
- Cannot Open Carry
 - Anyone who is not permitted to possess a gun
- Cannot Concealed Carry in Arkansas:
 - Anyone without a license **on their person** (A.C.A. § 5-73-315)

PROHIBITED PLACES – FEDERAL LAW

- Federal courthouses
- Any Building Owned, Leased or Rented by the Federal Government — including buildings inside of National Forests and Parks
- Secure sections of airports
- National Cemeteries
- Military bases
- Post Office
- School Zones (18 U.S. Code § 922(q))

FIREARM SENSITIVE AREAS

- A.C.A. § 5-73-325 (a)(1) The Department of Arkansas State Police may approve plans that designate certain areas as a firearm-sensitive area where possession of a concealed handgun is prohibited at:
 - (A) The Arkansas State Hospital;
 - (B) The University of Arkansas for Medical Sciences; and
 - (C)(i) A collegiate athletic event.
- (b) Security measures shall include:
 - (1) Officers on-site;
 - (2) Metal detectors;
 - (3) Barricades; or
 - (4) Other measures or devices designed to protect the public from a security threat.
- (d) Upon approval of a security plan, an entity shall post a notification at all firearm-sensitive areas that possession of a concealed handgun is prohibited.

PERMITTED PLACES – STATE LAW

Location	CCL	Enhanced
Public K-12		
Private K-12		*
Public College		Yes
Grievance or Disciplinary Hearing at		
Private College		*
Publicly-Owned Building		Yes
Capitol Grounds		Yes
Police Station		
ARDOT Facility		
Jail		
Courthouse		
Courtroom		
Government Body Meeting Place		Yes
General Assembly		Yes
State Office		Yes
Athletic Event		Yes
Bar		*
Passenger Terminal of Airport		Yes
Church		*
Parade/ Demonstration		Yes
Person exercising control over location posts notice		
Private owner posts notice		
Firearm-Sensitive Area in State Hospital, UAMS, Collegiate Athletic Event		

*With permission of private owner

INTERACTING WITH LAW ENFORCEMENT

- In Arkansas, everyone must identify themselves if asked by a police officer who has reasonable suspicion. (A.C.A. § 5-71-213)

- When concealed carrying & asked for identification (traffic stop or otherwise):

- Present photo id & concealed carry license
- Tell the officer you have a gun with you
- If you are not carrying, you have no duty to tell the officer you have a concealed carry license
 - A.C.A. § 5-73-315; State Police Rule 3.2

- When open carrying

- The mere fact that you are carrying does not give an officer reasonable suspicion to stop you
 - *Taff v. State*, 2018 Ark.App. 488, 9, 562 S.W.3d 877, 882 (2018)
- An officer must instead look at the totality of the circumstances to determine whether there is reasonable suspicion of a crime
- Keep hands visible
- Be compliant

GUNS IN THE WORKPLACE: WHOSE CHOICE?

- Government property according to statutes or regulations
 - Arkansas Enhanced license in certain state government buildings (A.C.A. § 5-73-306)
 - Courthouse employees allowed to carry inside
 - Federal property almost completely prohibited
- Private property
 - By choice of owner (A.C.A. § 5-73-306(19))
 - By choice of person exercising control over the location (A.C.A. § 5-73-306(18))
 - Consider policies of parent company
 - Written notice required to prohibit carrying

GUNS IN THE WORKPLACE: SPECIAL REGULATIONS

- Military
 - Law Enforcement Officers Safety Act of 2004 allows military police and service members who also serve in law enforcement to concealed carry while off-duty
 - A 2016 Department of Defense directive allows servicemembers to concealed carry on base with the permission of superior officers (DoD Directive 5210.56)
- Nuclear plants
 - The US Nuclear Regulatory Commission strictly controls security at nuclear facilities. Only specifically trained personnel can be armed on site (42 USC §13201 et seq.).

RIGHTS OF PRIVATE EMPLOYERS

- Right to prohibit anyone (except law enforcement) from carrying a gun on your property

Arkansas Code § 5-73-306(18)(A)(i)

- Right to prohibit employees from carrying a gun into the building
- Right to allow anyone to carry in the building

PRIVATE PROPERTY NOTICE REQUIREMENT



- To prohibit employees from carrying in the building
- To prevent visitors from carrying in the parking lot or in the building
 - “Carrying a handgun is prohibited”
 - At each entrance
 - Legible from 10 feet away

Ark. Code Ann. § 5-73-306(18)(A)(I)

GUNS-AT-WORK LAWS

- Over a dozen states, including Arkansas
- Different variations:
 - Protect employees' right to store in their vehicles
 - Limit employer's ability to search vehicles
 - Provide immunity to employers from injuries arising out of compliance

ARKANSAS PARKING LOT RULE

- Employers must allow employees to store guns in their vehicles.
 - In employee's private vehicle
 - In employer-controlled parking lot (not public or shared lots)
 - Handgun concealed, locked in storage container by the time employee exits vehicle
 - Employee keeps storage container key on their person

Ark. Code Ann. § 5-73-326

EXCEPTIONS TO THE PARKING LOT RULE

- Employee is undergoing a disciplinary proceeding
- Employer reasonably believes that the employee does not legally possess the gun
- Employee does not have a concealed carry license
- Employee does not comply with the Parking Lot Rule statute
- The parking lot is a prohibited place under 5-73-306, including public buildings, bars, churches, and athletic events
- Remember: You can still prohibit clients/customers/visitors from having guns in your parking lot. Post notices at each entrance to the parking lot.

Ark. Code Ann. § 5-73-326(c)(1)

COMPLIANCE WITH THE PARKING LOT RULE

- Violating the Parking Lot Rule opens you up to civil actions by employees.
 - If you prohibit an employee from storing their weapon in the parking lot, he or she has a statutory right to compensatory damages.

Ark. Code Ann. § 16-118-115

- Asking to retain/copy an employee's concealed carry license could be challenged as an invasion of privacy.

RISKS FROM GUNS IN THE WORKPLACE

- 2 million American workers are the victims of workplace violence each year.
 - U.S. Department of Labor, Occupational Safety and Health Administration: *Workplace Violence Fact Sheet 2002* (https://www.osha.gov/OshDoc/data_General_Facts/factsheet-workplace-violence.pdf)
- 18,400 American workers were seriously injured by workplace violence in 2017.
 - National Safety Council: *Assault at Work, Injury Facts 2020* (<https://injuryfacts.nsc.org/work/safety-topics/assault/>)
- There were 500 workplace homicides in the US in 2016
 - Roughly 400 of these were shootings
 - Roughly 13% were committed by employees
 - Bureau of Labor Statistics (<https://www.bls.gov/opub/ted/2018/there-were-500-workplace-homicides-in-the-united-states-in-2016.html>)

LIABILITIES FROM GUNS IN THE WORKPLACE

- Insurance
- Worker's comp
 - *Southland Corp. v. Hester*, 1973, 253 Ark. 959, 490 S.W.2d 132
- OSHA
 - Duty to provide a safe work environment
 - Duty to minimize risks created by violent employees. (29 U.S.C.A § 654)
- Negligence suit
 - *Catlett v. Stewart*, 304 Ark. 637, 804 S.W.2d 699 (1991)
- Premises Liability

EMPLOYERS' BEST PRACTICES

- Unless helpful for your industry, do not allow employees to carry guns inside the building
 - Communicate this policy in writing and record confirmation of notice
- If you do allow employees to carry, consider asking them to apply for an Enhanced Concealed Carry permit and to complete active shooter training
- Post notices at every entrance to prohibit visitors from carrying

SIGNS OF A POTENTIAL MASS SHOOTER

Stressors
Mental health
Financial strain
Job related
Conflicts with friends/peers
Marital problems
Abuse of illicit drugs/alcohol
Other (e.g. caregiving responsibilities)
Conflict at school
Physical injury
Conflict with parents
Conflict with other family members
Sexual stress/frustration
Criminal problems
Civil problems
Death of friend/relative

Concerning Behavior
Mental health
Interpersonal interactions
Leakage
Quality of thinking or communication
Work performance*
School performance**
Threats/confrontations
Anger
Physical aggression
Risk-taking
Firearm behavior
Violent media usage
Weight/eating
Drug abuse
Impulsivity
Alcohol abuse
Physical health
Other (e.g. idolizing criminals)
Sexual behavior
Quality of sleep
Hygiene/appearance

FBI: A Study of the Pre-Attack Behaviors of Active Shooters in the United States Between 2000 and 2013, June 2018

An active shooter is an individual engaged in attempting to kill people in a confined space or populated area. Active shooters typically use firearms and have no pattern to their selection of victims.



Can happen anywhere



Can happen anytime

IF YOU ARE INVOLVED IN AN ACTIVE SHOOTER INCIDENT

See something, say something.



Learn first aid skills so you can help others.

Before you run, know the exits.



Help law enforcement.

Find a place to hide.



Seek help to cope with trauma.



Run



Hide



Fight

ACTIVE SHOOTER SITUATION



ACTIVE SHOOTER SITUATION

<https://youtu.be/5VcSwejU2D0>



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