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Questions surround enforcement of Illinois' new concealed carry law

Firearm possession can be a polarizing issue. Politics and personal feelings aside, a series of court decisions required many states, including Illinois, to revise their laws on firearms possession.

Having spent a good deal of time in an armed profession as a former Chicago police officer and having had a great deal of interest as to whether others were also armed, I naturally took interest in the new law. Individual citizens, property owners, business owners and employers alike should educate themselves as to requirements of the new laws to ensure compliance.

In June 2013, the 7th U.S. Circuit Court of Appeals ruled in *Moore v. Madigan* that the gun laws in Illinois that only allowed a citizen to keep his or her gun in their abode was unconstitutional under the Second Amendment and under the Supreme Court's decisions in *Heller* and *McDonald*.

The 7th Circuit granted the Illinois legislature 180 days to pass legislation legalizing concealed carry. On June 3 of last year, the Illinois legislature passed the Firearm Concealed Carry Act (FCCA).

Regardless of one's feelings or opinions about gun laws, the FCCA has important ramifications for almost all business and commercial real estate owners and operators.

In Illinois, there have already been 33,631 applications submitted for concealed carry permits. Of

those, about 8,000 were submitted by Cook County residents. As Illinois continues to implement the FCCA and as more permits are issued, business owners, commercial real estate owners and tenants need to be aware of the impact of this law as well as their rights under the law.

The FCCA bans concealed carry in a number of places: government buildings, courthouses, prisons, hospitals, schools, universities, public events, arenas, stadiums, public parks, casinos, airports, amusement parks, zoos, museums, libraries and nuclear facilities.

Furthermore, the FCCA allows property owners to prohibit concealed carry on their property if they post a sign, which have become visible around the city in the last few months. Failure to adhere to these prohibitions can result in criminal penalties and revocation of one's concealed carry permit.

Despite the clear-cut nature of

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these restrictions, other prohibitions contained in the FCCA are less clear.

For example, the FCCA prohibits concealed carry in any establishment that serves alcohol on its premises if more than 50 percent of its gross receipts from the

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last three months were from alcohol.

Obviously, this is a difficult figure for the average person to project without access to a restaurant's books and records. Therefore, a restaurant owner who elects to allow concealed carry on his property, should be aware of his or her gross receipts and inform his or her customers accordingly.

This calculation may ultimately result in liability for business owners who are not aware of these restrictions.

Another prohibition that is less clear and deserves attention from the legislature is the clause that allows private property owners to prevent concealed carry on their property.

That clause states that "the owner of private real property of any type may prohibit the carrying of concealed firearms on the property under his or her control." Absent clarification from the legislature or the judiciary, it appears that only a property owner may prohibit concealed carry on the premises, not, for example, a lessee.

The ambiguity (or alternatively, the narrowness) of this clause could lead to disagreements between landlords and tenants about the propriety of such restrictions. Such disagreements could lead to a tenant being forced to allow individuals to bring guns into his store.

Alternatively, the statute seems to only allow an owner to prevent concealed carry on property "under his control." This would appear to preclude the landlord from forcing a tenant to prohibit concealed carry, given that a lease grants the tenant control over the property for the term of the lease.

As the implementation of the law moves forward, more rules are promulgated, and as the legislature tweaks the language of the FCCA, it is important for business and commercial real estate owners to understand the ramifications of this law on their operation and control of their business.

As with any new law, there have been little or no "test" cases that have gone through the system. Therefore, predicting outcomes is difficult. Individuals and companies are encouraged to seek counsel to ensure compliance with the law.