The politics of guns in America are volatile, divisive and passionate. Yet the daily risk guns present to private businesses does not depend upon the politics of the moment. Instead employers must deal with the tragic fact of gun violence in America, and some of their options are limited.

**FIREARMS: THE RISK MANAGEMENT PROBLEMS**

It is not hard to envision the risks that employees with guns create. OSHA obligates an employer to provide “employment and a place of employment which are free from recognized hazards that are causing or are likely to cause death or serious physical harm to his employees.” 29 U.S.C. § 654(a)(1) (2015). Firearms could meet that definition, creating a compliance problem. The same firearm could also cause injury, leading to workers’ compensation claims. Employees with guns also create third-party risk. Those injured might sue, alleging negligent security because the employer or property owner negligently failed to prevent the injury or adequately protect against it.

**THE MYTH OF THE SECOND AMENDMENT**

The federal constitution’s Second Amendment usually is referenced whenever guns are mentioned. However, the amendment’s scope is often misunderstood. Constitutions restrain government, not private businesses. The amendment limits what laws a government may enact to restrict guns.

Still, governments may enact some gun laws without constitutional concerns, even some applicable to private businesses. As a result, some states have enacted gun laws they believe promote the purpose of the federal Second Amendment. These laws often do impact the employer/employee relationship.

**BRING YOUR GUN TO WORK LAWS**

Several states have enacted statutes generally known as “bring your gun to work” laws. Each state uses different language but they generally have the same objective. Kentucky’s is typical. “No person, including but not limited to an employer, who is the owner, lessee, or occupant of real property shall prohibit any person who is legally entitled to possess a firearm from...
employers are “not liable in a civil action for damages arising from a firearm transported or stored pursuant to this Section.” La. Rev. Stat. § 32:292.1(B) (2015). As applied to the Lafayette movie theater shooting in June, 2015, assume the shooter legally possessed the firearm involved, transported it to the movie theater in his car, and then used it in the shooting. When the shooter is inevitably sued, does the statute arguably provide immunity because the damages arose from a firearm transported or stored in a private vehicle?

WHAT TO DO?

Unfortunately the language in bring your gun to work laws is not uniform where they have been adopted. For the moment, employers may need to add these laws to state specific lists of obligations and hope for the best while implementing those safety policies merited and legal in that state.