



Loss Control Division

of the Alabama Municipal Insurance Corporation
and the Municipal Workers Compensation Fund



Weapons Carry: Non-LEO Employee

This is a difficult matter due to the potential risk of allowing or prohibiting the carrying of a firearm as a part of their employment. Historically and traditionally, the only municipal employees allowed to carry a firearm were law enforcement officers. However, with the change in firearms carry law and the potential dangers in certain positions, allowing non-law enforcement employees to carry weapons while at work is in effect or under consideration by various municipalities. Obviously, allowing non-law enforcement employees to carry either lethal or less-lethal weapons potentially increases a municipality's liability. There are not one-size fit all answers, but there is information that may be helpful:

State Code Section 13A-11-90 states in *part (a) Except as provided in subdivision (b), a public or private employer may restrict or prohibit its employees, including those with a permit issued or recognized under Section 13A-11-75, from carrying firearms while on the employer's property or while engaged in the duties of the person's employment.* An employer can restrict or prohibit an employee from carrying a firearm while at work, but the law is silent regarding any specific requirements if an employer wishes to permit such practice. However, a review of State law provides guidance for the general possession and carrying of firearms, which should be considered by both the employer and employee before beginning this practice.

Section 13A-11-52 Carrying Pistol on Private Property; Who May Carry Pistol.

Except as otherwise provided in this article, no person shall carry a pistol about his person on private property not his own or under his control unless the person possesses a valid concealed weapon permit or the person has the consent of the owner or legal possessor of the premises; but this section shall not apply to any law enforcement officer in the lawful discharge of the duties of his office, or to United States marshal or his deputies, rural free delivery mail carriers in the discharge of their duties as such, bonded constables in the discharge of their duties as such, conductors, railway mail clerks and express messengers in the discharge of their duties. Subsequently, a non-law enforcement municipal employee would at the very least require a valid concealed weapon permit to possess a pistol on private property, OR, permission of the owner /possessor (which would need to occur before entering the property).

Section 13A-11-61.2 Possession of Firearms in Certain Places.

(a) In addition to any other place limited or prohibited by state or federal law, a person, including a person with a permit issued under Section 13A-11-75 or recognized under Section 13A-11-85, may not knowingly possess or carry a firearm in any of the following places without the express permission of a person or entity with authority over the premises. Employees must be fully aware of the places listed within this Code Section and always remain in full compliance. Further reading of this section provides for a law enforcement exception, but it does not apply to other government (municipal) employees.

Prior to any non-law enforcement municipal employee receiving authorization to carry a firearm or less-lethal (Taser, pepper spray, etc.) weapon as part of their assigned job duties, the following concerns or recommendations should be considered and addressed:

- Conduct due diligence regarding the reason(s) for allowing this authorization, to include discussion with the municipal attorney, governing body, department head, or others as appropriate. Seek alternative methods of conducting assigned job duties without carrying weapons.
- Document the circumstances and situations in which weapon carry may be authorized and used in the line and scope of an employee's job duties - and acknowledged by the employee. Any authorization should be job assignment and circumstance specific.
- All weapons and ammunition should be specifically approved and governed by the municipality (no bazookas, flame-throwers, etc.) to include manner of carry (threat-level type holster, etc.), and consistent with the potential threat or area of concern.

NOTE: Weapons include any firearms. Less-lethal weapons include pepper spray, TASER, Baton/ASP, less-lethal firearms (shotguns, tranquilizer rifle, etc.) or any similar type weapons.

- If a handgun or TASER, the weapon must be always concealed in an approved holster.
- If a rifle or shotgun is allowed to be carried it must be kept with the safety on, without a round in the chamber, and in a vehicle that is locked at all times while unattended.
- Employees allowed to carry a weapon for protection from snakes or wild animals based on job duties should receive documented initial and ongoing training on the appropriate use of all authorized weapons.
- Employees allowed to carry for personal protection or to protect others, in addition to training on the appropriate use of the weapon should also receive training on use-of-force, de-escalation techniques and a review of the appropriate State Code Sections.

- Authorized employees should be required to obtain and maintain a state issued pistol permit, with a copy on file.
- Employees that are not APOSTC certified law enforcement officers must clearly and fully understand that they do not have the power of arrest, or the ability to issue Alabama traffic or non-traffic citations, and these employees should not represent themselves otherwise.
- Law enforcement officers are legally responsible for the results of any and every weapons use, meaning they are accountable if the use was improper or illegal, or if usage results in injury or death of an unintended target, including bystanders. Although Alabama has a broad open carry law, if a municipality allows an employee to carry lethal/non-lethal weapons on duty, both the municipality and the employee assume the liability for the use of these weapons. This liability may be enhanced by the fact that the employee is acting as an agent of the municipality. Bear in mind, law enforcement liability coverage does not extend to non-law enforcement employees. Employees that are allowed to carry should be advised that they are not covered under your liability coverage and should obtain concealed carry or self-defense liability insurance with at least one million in limits.
- Must not be allowed to carry a firearm if:
 - The employee has been convicted of any crime of violence, or subject to a domestic violence protection order.
 - The employee has documented prior workplace incidents involving the threat of physical injury or that resulted in physical injury.
 - The employee is considered of "unsound mind, or a court finds that, due to a mental illness or other condition, they are a danger to themselves, or others or a court involuntarily commits them for inpatient treatment at a mental health facility.

These recommendations should not be construed as supporting a decision to allow non-law enforcement employees to carry firearms or less-lethal weapons as part of their assigned job duties but only minimize exposure to liability. As this is somewhat unfamiliar territory, there may be other issues that need consideration or addressing. Working with your municipal attorney in creating a policy addressing these issues is encouraged.

NOTE: This document is not intended to be legal advice. It does not identify all the issues surrounding the particular topic. Public agencies are encouraged to review their procedures with an expert or an attorney who is knowledgeable about the topic. Reliance on this information is at the sole risk of the user.