

# LABOR AND EMPLOYMENT LAW

## INFORMATION MEMO

OCTOBER 10, 2022

## Decision Issued Restraining Enforcement of Significant Aspects of New Gun Legislation

On July 1, 2022, Gov. Kathy Hochul signed new legislation in response to a U.S. Supreme Court decision striking down a law whereby applicants for permits to “conceal and carry” firearms had to show “good cause” as to why they should be issued such a permit. The new legislation—the Concealed Carry Improvement Act (CCIA)—modifies the requirements for obtaining a concealed carry permit and prohibits the possession of firearms in areas deemed “sensitive” or “restricted.” Restricted areas were defined as private property where the owner or lessee has not given explicit permission for individuals to possess firearms on the property, by posting signage or other means. Thus, under the law, firearms would be prohibited in places of employment except where explicit permission had been given.

The law went into effect on Sept. 1, 2022 and as expected was subject to legal challenge on constitutional grounds. In *Antonyuk v. Hochul*, No. 22-cv-00986 (N.D.N.Y.), the plaintiffs sought injunctive relief restraining the enforcement of numerous aspects of the law. Most notably for employers, the plaintiffs sought to restrain enforcement of the law to the extent that it prohibits the possession of firearms in “restricted areas.”

On that issue, U.S. District Court Judge Glenn T. Suddaby agreed with the plaintiffs. He held that “New York is now making a decision for private property owners that they are perfectly able to make for themselves . . . as well as arguably compelling speech on a sensitive issue.” Based on its analysis, the Court ordered that enforcement of the prohibition of the possession of firearms in “restricted areas” was “temporarily restrained, except with regard to fenced-in farmland owned by another or fenced-in hunting ground owned by another.”

In its decision, the Court also:

- Allowed provisions prohibiting the possession of firearms in government buildings and areas restricted from general public access for a limited time by the government to stand;
- Allowed the provision prohibiting the possession of firearms in places of worship to stand, except to the extent that individuals “have been tasked with the duty to keep the peace at the place of worship or religious observation”;
- Allowed the provision prohibiting the possession of firearms in schools, colleges, and educational facilities to stand, except as it applies to summer camps;
- Restrained enforcement of the provision prohibiting the possession of firearms in places or vehicles used for public transportation;
- Allowed a provision prohibiting the possession of firearms “in any gathering of individuals to collectively express their constitutional rights to protest or assemble” to stand;

- Restrained enforcement of the provision on possessing firearms in places used for entertainment or amusement and places where alcoholic beverages are consumed;
- Restrained enforcement of the provision prohibiting the possession of firearms in Times Square; and
- Restrained enforcement of the provision prohibiting the possession of firearms in areas deemed “sensitive locations.”

The Court further held that a provision requiring applicants to demonstrate that they are of “good moral character” must be construed such that licenses must be issued unless a preponderance of the evidence demonstrates that the applicant lacks good moral character and that allowing the applicant to possess a firearm would pose a danger to the applicant or others. It also restrained the enforcement of provisions requiring applicants to provide a list of family and cohabitants and a list of their social media accounts, as well as a provision requiring applicants to participate in an in-person meeting to obtain a license. Conversely, the Court allowed provisions requiring applicants to provide four character references and to participate in eighteen hours of firearm training to stand.

The Court stayed enforcement of the decision for three business days to allow the state to seek emergency relief from the Second Circuit Court of Appeals. In the meantime, employers wishing to prohibit the possession of firearms on their premises should promulgate policies and display signage advising individuals that firearms are not allowed on the premises.

We will continue to provide updates regarding this issue. If you have any questions regarding the effects of this legislation, please contact [Nicholas Jacobson](#), any attorney in Bond’s [labor and employment practice](#) or the attorney at the firm with whom you are regularly in contact.

