

Pistol Permits: Posting at Private Establishments

Minnesota recently enacted modifications to its law relating to the issuance of permits to carry pistols in public (Minnesota Laws 2003, chapter 28). As part of the new law, certain policies were adopted that regulate how a “private establishment” may notify permit holders that firearms are not allowed in a private building. This paper details the notification procedures and requirements set out in the new law.

Who may prohibit firearms?

Any “private establishment” may generally prohibit the carry or possession of firearms. Private establishment means “a building, structure, or portion thereof that is owned, leased, controlled, or operated by a nongovernmental entity for a nongovernmental purpose.” This includes any private entity that is deemed “nongovernmental,” including businesses, churches, private colleges, and nonprofit organizations.

Are there any areas where a private establishment may not prohibit firearms?

The new law provides that a private establishment may not prohibit the lawful possession of firearms in a parking facility or parking area.

Do the new posting provisions apply to homeowners?

No. The new posting provisions do not apply to “private residences.” The lawful possessor of a private residence (a homeowner or apartment dweller) may “prohibit firearms, and provide notice thereof, in any lawful manner.” This means that a homeowner can prevent the carrying of guns on the homeowner’s property in the same manner he or she can prevent any unwanted trespass. Oral notice alone is sufficient. A posted sign alone is likely sufficient.

A landlord may not prohibit firearms. The new law says that “a landlord may not restrict the lawful carry or possession of firearms by tenants or their guests.” This appears to apply to both residential and commercial landlords.

How do the posting provisions apply to private property that is not a private residence, building or parking area?

Private property that is not a private residence, building, or parking area appears to be governed by the general trespass statute. A private property owner should be able to prohibit firearms in those areas under the provisions of existing trespass law. For example, it appears that oral notice alone is sufficient.

How does a private establishment provide notice that firearms are not allowed in a building?

A private establishment must make a “reasonable request” to do so. Under the new law, a reasonable request requires (1) the posting of a sign, *and* (2) that the private establishment “personally informs” the person of the posted request and demands compliance. A sign alone is insufficient.

The term “personally inform” is not defined in the new law. It seems to include an oral request. It may also include written notice on the ticket of a ticketed event. But the term appears to be subject to some degree of interpretation.

Failure to leave a posted premises after a reasonable request to do so is a petty misdemeanor.

What are the requirements for the sign?

The sign must be 187 square inches in area. This includes an 11-inch-by-17-inch sign, but it could also be other dimensions, as long as it is of the required area. The background of the sign must be “bright.”

The lettering must be black Arial typeface at least 1.5 inches in height. The lettering must contrast with the background of the sign.

The sign must indicate the identity of the operator of the private establishment and state that the operator “BANS GUNS IN THESE PREMISES.” For example: “ACME ANVILS, INC., BANS GUNS IN THESE PREMISES.”

Where must signs be posted?

The signs must be posted within four feet laterally of every entrance to the establishment. The bottom of the sign must be four to six feet above the floor.

Is anyone exempt from the posting provisions?

On-duty peace officers and security guards acting in the course and scope of employment are exempt. Off-duty peace officers are not exempt from the posting provisions at a private establishment.

Are there special provisions for employees?

Yes. The new law provides that an employer may establish policies that restrict the carry or possession of firearms by an employee while acting in the course and scope of employment. However, an employer may not prohibit the lawful carry or possession of firearms by employees in a parking area.

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