



HGSUW News & Views

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ILLINOIS PASSES RULES FOR CONCEALED CARRY

After considerable debate, Illinois has adopted the rules and regulations under which it will become the final state in the Union to allow some form of concealed carry of handguns. In order to be eligible for a Concealed Carry License one must be at least twenty-one years of age and, if an Illinois resident, possess a valid Firearms Owner Identification card. Applicants must also not have been convicted or found guilty of a misdemeanor involving the use or threat of physical force or violence within the last five years, convicted or found guilty of two or more violations relating to driving under the influence of alcohol or other drugs within the last five years, or have a pending arrest warrant, prosecution or proceeding for an event or action that could disqualify them from obtaining a Concealed Carry License. Additionally, applicants must not have been in residential or court-ordered treatment for alcoholism, alcohol detoxification, or drug treatment within the last five years. Applicants must also complete sixteen hours of firearms training which meets standards set forth by the State.

The Illinois State Police have stated that Concealed Carry License applications will be made available to the public by January 5, 2014. Applications are to be approved or denied within ninety days. If fingerprints are not submitted with an application in an electronic format an additional thirty days will be granted to the Illinois State Police to conduct their background check. A five year Concealed Carry License will cost One Hundred and Fifty Dollars for Illinois residents, and Three Hundred Dollars for non-residents.

Even for those with a Concealed Carry License, handguns will still be prohibited in some places, such as schools, stadiums, parks, gaming facilities, hospitals, and government buildings. Handguns will also be prohibited in bars and taverns, but not at restaurants where less than half their sales are alcohol. Additionally, other businesses have the option of prohibiting handguns by displaying a 4" by 6" sign in a clear and conspicuous manner at the entrance. The official sign to be used for this can be downloaded at the Illinois State Police website. However, even on premises where handguns are prohibited, Concealed Carry License holders may still store handguns out of sight in a locked vehicle or in a locked container or compartment within his or her vehicle.

If you have any questions regarding any governmental or licensing issues, please contact Charles J. Urban, David L. Wentworth, or William P. Streeter at (309) 637-



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Special Points of Interest:

- Estate Planning & Tax Consequences
- January 1, 2014 brings new laws in Illinois, including medicinal marijuana, boating and littering.

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THE DEATH OF THE STAR OF THE SOPRANOS HIGHLIGHTS NEED FOR COMPREHENSIVE ESTATE PLANNING

For almost a decade the frequent deaths on the widely popular HBO series *The Sopranos* sparked conversations amongst fans across the country relating to subjects such as murder, the mafia, and betrayal. The recent death of the star of *The Sopranos*, James Gandolfini, also ignited much conversation on an equally exciting topic, estate planning. Although Tony Soprano, the mafia don on the show played by Gandolfini, certainly knew that death could come unexpectedly, it appears as though this may have been a lesson the actor did not learn from his fictional alter ego. Mr. Gandolfini died unexpectedly this summer at the age of 51, leaving a fortune made from his acting career estimated at Seventy Million Dollars. In addition to being surprised by the early passing of Mr. Gandolfini, many were shocked that despite the vast sums in his estate it did not appear that his estate plan had been well crafted. Mr. Gandolfini did leave a Will, but the way in which the Will directed his assets to be distributed has been the subject of much scrutiny. Among other issues, it has been estimated that Mr. Gandolfini's estate plan will result in Thirty Million Dollars in estate taxes. Although the estate plan was not legally improper and Mr. Gandolfini was within his rights to distribute his assets in the manner it prescribed if he so desired, many have questioned whether he would have done so had he fully considered and understood all the consequences of his estate plan and the other options available.

One may want to be careful about lessons taken from the fictional life of Tony Soprano, but important things can be learned from the life and death of the actor who played the role. Most already know the importance of having a will and other estate planning documents. However, it is also important to be sure you know and understand the effect of your estate plan, and to be sure that it continues to reflect your wishes throughout your life. If you would like to have an estate plan prepared, review your existing estate plan, or otherwise discuss any estate planning issues, please contact James R. Grebe, John G. Dundas, or David B. Wiest at (309) 637-1400.

"LEGALIZATION" OF MEDICINAL MARIJUANA IN ILLINOIS RAISES QUESTIONS FOR EMPLOYERS

Beginning January 1, 2014, Illinois Law will allow for the use of marijuana under some circumstances with a prescription from a doctor, joining a number of states which have changed their laws to allow for marijuana's use on a medicinal and/or recreational basis. Although these actions by the states are often referred to as the "legalization" of marijuana, it is important to note that the possession and use of marijuana remains illegal throughout the United States. Although some states have removed or amended their individual laws relating to marijuana, their doing so did not alter the federal prohibition on its possession and use. Therefore, marijuana remains illegal in every state, even when it is prescribed by a doctor in a state that has "legalized" its use for medicinal purposes such as Illinois.

This difference in state and federal law can place Illinois employers in a difficult position when it comes to drug use policies. Some employers' policies call for automatic termination of an employee who is found to have marijuana in his or her system, regardless of whether the employee is under its influence while at work. Although the new law states that employers are not prohibited from enforcing drug testing or other drug-free workplace policies, it has been argued that other portions of the law provide protection to employees using medicinal marijuana. It is almost inevitable that at some point a terminated employee in Illinois will sue a former employer challenging his or her firing by asserting the marijuana in his or her system was prescribed by a doctor for a legitimate medical condition, and legal under Illinois Law.

While the eventuality of such a lawsuit in Illinois seems likely, the outcome is less certain at this point. A few states have directly addressed similar issues, and have generally found that, as marijuana use remains illegal under federal law, employers may prohibit its use by employees regardless of whether it is prescribed by a doctor within the confines of state law. Other states have avoided the issue by finding that the firings in question were prohibited by other laws in their states, such as laws stating that actual impairment had to be shown to justify the termination of an employee for marijuana use. Although these cases from other states may provide some guidance as to how Illinois courts may look at this issue, it should be noted that they have no authority in Illinois and, at most, would only be persuasive to

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NEW JERSEY COURT FINDS POTENTIAL LIABILITY FOR REMOTE TEXTING

Most people are aware that in Illinois it is now a violation to text while driving. It may also not be surprising that Illinois courts may consider actions such as texting while driving to be indications of negligence in civil actions relating to auto accidents. An Appeals Court in New Jersey has extended the potential liability relating to texting much further, however. The Court stated that a person who was otherwise not involved in an accident, and nowhere near the scene of the accident itself, could potentially be held liable for injuries sustained in the accident for texting one of the drivers. In that case the driver of one of the vehicles received a text shortly before an accident occurred. The plaintiffs sought to hold the person who sent that text liable for their injuries under the theory that viewing or responding to the text led the driver to commit the act that caused the accident. The court found that based on the facts of that case there was not enough evidence to hold the text sender liable. However, it stated that one could be liable if he or she sends a text to someone that the sender knows, or has a special reason to know, will view the text while driving.

The New Jersey court's opinion has no authority over Illinois courts, and we are not aware of any Illinois courts that have addressed this issue. However, the case does illustrate the evolving nature of the law in relation to new technologies.

If you have any questions relating to any personal injury or other civil litigation matters, please contact Kenneth M. Snodgrass, David L. Wentworth, or James P. Lawson at (309) 637-1400.



STRICTER DRUNK BOATING RULES TO GO INTO EFFECT

With the cold and ice in Central Illinois during the winter months, recreational boating activities fall to a minimum. However, one event that will take place on January 1, 2014 could have a significant impact on boaters who are not aware of it come the spring and summer. On that day a new law will take effect which targets drunk boating.

Under the new law, operators of motorboats involved in accidents resulting in death or serious injury will be required to submit to blood, urine, and breathalyzer tests. Those who refuse such testing can have their driver's license suspended or revoked, as can those who submit to such testing and have a blood-alcohol content level above 0.08. An earlier version of this Bill also applied to operators of sailboats and certain other watercraft, but the final Bill was only applicable to motorboats.

If you have any questions relating to DUI or any other criminal matter, please contact Boyd O. Roberts at (309) 637-1400.

DON'T LITTER, AND WE MEAN IT

A recent amendment to the Illinois Litter Control Act could be costly for smokers who do not properly dispose of their cigarette butts. Effective January 1, 2014, throwing a cigarette butt out a car window or elsewhere in public will be specifically prohibited in Illinois. First time offenses will be Class B misdemeanors subject to fines not to exceed One Thousand Five Hundred Dollars and a maximum of six months in jail, and second time offenses will be Class A misdemeanors subject to the same fine and a maximum of 364 days in jail. Third and additional offenses will be Class 4 felonies subject to fines up to Twenty-Five Thousand dollars and between one and three years in prison.

If you have any questions relating to any criminal matters, please contact Boyd O. Roberts at (309) 637-1400.



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**MEDICINAL MARIJUANA
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courts in this state to the extent the courts find them to be well founded.

The lack of certainty as to the ultimate outcome of these issues does not mean employers should ignore the matter. We advise employers to routinely review their workplace rules and policies to ensure they continue to conform with the employers' goals and comply with all applicable laws, and reviewing your drug policies in light of the recent changes in Illinois law is recommended.

If you have any questions relating to your workplace rules and policies, or if you have any other employment law related issues, please contact Kenneth M. Snodgrass or Charles J. Urban at (309) 637-1400.



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