

Coastline

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2011 ABC LEGISLATIVE CONFERENCE



ABC Texas Gulf Coast Chapter represented in Washington, D.C. by Chapter Chairperson, Immediate Past Chairperson, and President



Texas Gulf Coast Chapter Leaders Attend ABC National Legislative Conference in Washington, D. C. in June along with 300 + ABC members from across the nation!

Buck Blevins, Texas Gulf Coast Chairman (Infinity Construction Services, LP); Lisa Bundick Woods, Immediate Past Chairperson (Tri-Construction Co., Inc.); and Terry McAlister, Texas Gulf Coast Chapter President & CEO joined a group of more than 375 ABC Members who converged on the nation's capitol to ensure that legislators clearly knew their position on Union-only Project Labor Agreements, an onerous Tax Code, Health Care Reform, the National Labor Relations Board, and increased regulation. Dressed in neon yellow safety vests, the ABC and their strong belief in free enterprise was a contingent hard to ignore.

Top picture, L-R: Buck Blevins, Lisa Bundick Woods, and Terry McAlister in front of the capital building with Mike Uremovich, ABC National Chairperson.

Key Note Speakers for 2011 ABC LegCon featured passionate, political authorities & analysts: Rep. Frank Guinta, (R-NH), Sen. Marco Rubio (R-FL); and Charlie Cook, political analyst



Freshman Rep. Guinta, a staunch supporter of merit shop and the 2011 Legislator of the Year, believes small business is the engine that drives US Economy and creates jobs.



Sen. Rubio, a rising star in the Republican Party, shared his thoughts on issues critical to the construction industry.



Cook focused on 2011 redistricting, the current political environment, and a look ahead to the 2012 elections.



Notable Statements/Observations by 2011 LegCon Speakers:

Senator Rubio (FL): Praised ABC's political involvement, stating that our advocacy comes at a very important time. 'You understand the obstacles facing small business. The rest of the world admires Americans and what we stand for, especially free enterprise.'

Charlie Cook: Believes the state of the economy next year will have the greatest impact on the outcome of the presidential election and that independent voters will have a huge impact.

Representative West (FL): Noted that there is no other construction association with ABC's level of political involvement.

Representative Guinta (NH): Named 2011 Legislator of the year by ABC and shares the principles of full and open competition for the advancement of the free market.

ABC National Chairman Mike Uremovich: Urged ABC members to mobilize our forces and promote the merit shop philosophy.



U. S. Representative Allen West, FL, praises ABC efforts at Free Enterprise Alliance Reception.



Mike Uremovich, 2011 ABC National Chairman



U. S. Senator Jim DeMint, SC, addresses members at Free Enterprise Alliance Reception.

Membership

Texas Gulf Coast Chapter Leaders with legislators, political analysts and keynote speakers in Washington D. C., June 2011



Representative Allen West (FL), Woods, and Blevins



Woods, McAlister, Representative Ron Paul (TX), and Blevins



Blevins, Senator John Cornyn (TX), Woods



Blevins and Representative West (FL) at the Free Enterprise Alliance Reception.



Immediate Past Chairperson and current Chairperson - Woods and Blevins



Representative West, McAlister, and Blevins



Woods and Blevins in D. C., June 2011

Texas Gulf Coast Chapter—Active Leaders—ABC Strong!



27th Annual ABC Golf Classic Monday, September 12, 2011 at the Wilderness Golf Course

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Membership



ABC Membership. . . Tell Others About The Benefits & Help To Recruit a New Member Today!

Tell a non-member about the value of ABC membership. Share an example of a particular benefit that has helped enhance your business. Encourage prospects to:

- Visit the local website at www.abctxgulfcoast.org to learn about the services, programs, and networking opportunities or call the ABC office at 979.233.1616 or 979.233.0279
- Visit the ABC National website at www.abc.org to see the many other benefits and resources available to ABC members

As your business partner, ABC provides:

- Business development tools to grow your business
- Management Education to enhance your professional expertise
- Craft training programs for your employees
- Safety programs to improve your company's performance
- Government affairs resources to make your political voice heard
- Legal services to protect your business
- Website tools to link you with construction resources on the Internet
- Networking opportunities to connect you with industry leaders
- Publications to inform you about industry news
- Insurance programs to help you attract and retain employees
- Business discount programs to save your company money
- Student outreach efforts to build the industry's future workforce
- 75 chapters to support your company locally

Lisa Bundick Woods
ABC Membership Committee
Chairperson
Tri-Construction Co., Inc.
979.233.7211

Terry McAlister
ABC President
979.233.0148

Jack Murphy
Wolfenson Electric, Inc.
979.265.1831

Laurie Groth
Performance Contractors, Inc.
832.241.4404

Ruby Pratt
ABC Staff Liaison
979.233.0279 or 233.1616

Texas Gulf Coast Membership Goal for 2011

We are halfway to our goal with **six new members to date!**

With your support, we can reach the **goal of 12 new members for 2011.**

ABC works for our members—delivering pertinent information, providing opportunities for networking and business development. Recruit a new member today!

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Are you taking full advantage of the many opportunities and benefits that your membership affords you?

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Helping A Hometown Hero:

ABC Makes \$3,000 Donation to Helping A Hero, to help build a house for SPC Bradley Thomas, Brazosport High School Graduate

Recently, an urgent request was made to help raise \$200,000.00 by the end of May for one of the 10 most severely wounded combat survivors in the entire United States., SPC Bradley Thomas of Jones Creek, Texas. Funds were requested to build Bradley a home with a full lift system.

The ABC Public Relations Committee made a request to the ABC Board for approval of a fund donation to help this injured veteran from Brazoria County. Available funds were approved in the amount of \$3,000.00 for SPC Bradley Thomas.

On May 31, 2011 ABC mailed funds to HelpingaHero.org specifically for SPC Bradley Thomas. Bradley suffered a traumatic brain injury as a result of an EFP attack on his Stryker in 2008 in Iraq and has been in specialized care for the past 3 years. Brad is now semi conscious and is unable to communicate or respond to requests. He requires full time 24/7 care and his family will be providing this care once he returns home augmented with VA caregiver support each night. Brad's home will be built in Jones Creek, Texas which will take 100 days to complete.

HelpingaHero.org is a 501(c)(3) non profit, non-partisan organization providing support for military personnel severely injured in the war on terror. The principal activity is to provide specially adapted homes for qualifying service members as well as engaging the community to provide services and resources for our wounded heroes and their families.

What better way to support the troops and the freedoms they fight for: the core value of ABC-Free Enterprise.

The ABC Board and Public Relations Committee thanks ABC members and others for their support of ABC fundraiser events, which help so many within the community.

Texas Gulf Coast Makes Two Significant Contributions Community in June

On June 21, 2011 ABC Cares donated men's clothing and other accessories to Texas Port Ministry (TPM). TPM left the ABC office with a van full. The ABC Board of Directors and ABC Cares/Public Relations Committee thank ABC members and community for your support.

Thank you from TEXAS PORT MINISTRY

Thank you ABC, your members and employees for partnering with Texas Port Ministry through your most generous donation of clothing. Together we are making a difference in the lives of individuals by helping to meet a clothing need. Texas Port Ministry exists to provide spiritual, social and physical care to the Freeport harbor community. Your donations help us to meet some of those physical needs. Thank you!

It has been said that Port Ministries, like ours, fly under the radar. People don't know who we are, where we are, or what we do. Our primary focus is on seafarers, truck drivers, and Port workers who work in our harbor area. Visitors to our ministry center have free access to our Blessing Room. This is a room we have set up with clothing and other items they may need. We make these items available free of charge thanks to donations like yours.

So far this year, there have been 370 ships in port and a total of 882 visitors to our center. As you can see, we have great opportunities to make a difference in a person's life. I recently had a couple of truck drivers stop by. In the course of our conversation, they found out that they could take a shower here but were disappointed because they didn't have toiletries or a change of clothes with them. Because of our Blessing Room, I was able to find them everything they needed. After they got cleaned up, I was visiting with one of the drivers. He told me of difficulties with his family that he was experiencing and how he had laid in the truck's sleeper that morning and told God that he really needed to see him today. The driver went on to say, "Thanks so much for being here. I saw God today."

Of course, clothing is only one aspect of the ways we meet physical needs. I invite you to stop by to visit our ministry center located at 1103 Cherry St. in Freeport. I would love to give you a "first hand" look into where we are and what we do or check out our website www.texasportministry.org and become a fan of our Texas Port

Ministry page on Facebook. I hope that you might also discover this is a great place to give some volunteer time and support. We can't do it alone. It takes partners like you.

*Blessings to you all,
Bobby Fuller, Dir,
Texas Port Ministry
979-233-5641*



Bobby Fuller and volunteers pose with Laurie Groth, Chairperson of ABC Cares, the PR subcommittee for Texas Gulf Coast.



Coming This Fall: Guns in Company Parking Lots

On June 17, 2011, Governor Rick Perry signed into law Senate Bill 321, which restricts employers from prohibiting employee storage of lawfully possessed firearms in vehicles parked in employer parking lots. The amendment to Chapter 52 of the Texas Labor Code, SB 321 provides that a private or public employer may not prohibit an employee from storing a firearm or ammunition in a locked, privately owned motor vehicle in a parking lot, garage, or other parking area provided by the employer. In order to store a firearm in his or her vehicle, the employee must hold a concealed handgun license (CHL) in accordance with Chapter 411 of the Texas Government Code or otherwise lawfully possess a firearm. (In Texas, a person may possess a concealed handgun in his or her vehicle even though the person does not hold a CHL. Texas Penal Code § 46.02(a-1). There are exceptions to this rule that are not generally applicable to most employees. *Id.* § 46.02(a-1)(2)(A)-(C).)

As with any legislation, the general rule also contains several exceptions. **SB 321 does not authorize possession of a firearm where possession of a firearm is otherwise prohibited by state or federal law.** SB 321 does not apply to vehicles owned or leased by the employer even if the employee uses the employer's vehicle in the course and scope of employment. Thus, employers may continue to prohibit possession of firearms in a company car. The exception to this exception is where the employee is required to transport or store a firearm as part of the employee's duties.

SB 321 also does not apply to employee storage of firearms in their vehicles in parking lots of school districts, open-

enrollment charter schools, or private schools. SB 321 does not apply to property owned or controlled by a person, other than the employer, subject to a valid, unexpired oil, gas, or mineral lease, as long as the lease contains a provision prohibiting possession of firearms on the property.

Finally, SB 321 does not apply to chemical manufacturers or oil and gas refiners where the primary business is the manufacture, use, storage, or transportation of hazardous, combustible, or explosive materials. (In order to qualify for this exception, the business must possess an air authorization under Chapter 382 of the Texas Health and Safety Code.) **Even this exception contains an exception.** An employee who holds a CHL may store a firearm or ammunition in a privately owned vehicle at a chemical plant or oil and gas refinery as long as the car is in a parking lot outside of the restricted area of the plant, and as long as the plant is not open to the public and entry to the plant is monitored by security personnel.

SB 321 applies only to parking areas. An employer may continue to prohibit employees from possessing a firearm on the "premises" of the employer's business. The term "premises" is defined by Section 46.035(f)(3) of the Texas Penal Code as a building or portion of a building. "Premises" does not include a driveway, street, sidewalk, walkway, parking lot, parking garage, or other parking area. In this respect, SB 321 amends Section 411.203 of the Texas Government Code to make clear that an employer may limit the right of a person holding a CHL from carrying a concealed handgun on the employer's premises. However, SB 321 defines narrowly the term "premises" and adopts the definition of "premises" set forth in Section 46.035(f)(3) of the Texas Penal Code.



Except for cases of gross negligence, SB 321 expressly gives an employer (which includes an employer's principal, officer, director, employee, or agent) immunity from civil liability in an action for personal injury, death, property damage, or any other damages resulting from or arising out of an occurrence involving a firearm or ammunition stored or transported in an employee's vehicle. **The presence of a firearm or ammunition in a manner allowed by the new law does not constitute a failure by the employer to provide a safe workplace.** Finally, the law expressly states that the employer does not have any duty to inspect, patrol, or secure the parking lot or any vehicles parked in the parking lot. In addition, the employer has no duty to confirm or determine an employee's compliance with laws relating to firearm ownership or possession.

Interestingly, SB 321 does not contain an express private right of action for aggrieved employees. If an employer maintains a policy that prohibits its employees from storing otherwise lawfully possessed firearms in their vehicles, such a policy likely would be contrary to SB 321. Would this allow an employee to bring a cause of action against his or her employer to enjoin enforcement of the employer's policy? What if an employer terminates an employee for violation of the policy? Would the employee have a cause of action against the employer for wrongful termination? Texas courts have been loath to adopt judicial exceptions to the well established doctrine of employment at will. (The only common law exception in Texas to the doctrine of employment at will is where an employer discharges an employee for refusing to perform a criminal act. *Sabine Pilot Serv., Inc. v. Hauck*, 687 S.W.2d 733 (Tex. 1985).) It would be hard to imagine that the Texas Supreme Court would recognize an exception to the doctrine of employment at will for an employee who alleges wrongful termination if the employee is fired for storing a lawfully possessed firearm in his or her vehicle. In absence of an express private right of action, it appears that the employee's only remedy would be to report the employer's policy to the Texas Attorney General or other law enforcement authorities.

Advocates nationwide on both sides of this issue have been engaged in an on-going debate about this type of legislation. Some argue that employee access to handguns in a parking lot is a recipe for

situation where a distraught employee, perhaps enraged by an incident at work, goes out to his or her car, retrieves a weapon, and then goes back to the workplace and shoots a coworker or supervisor. Having a weapon so readily available at work has the potential to elevate an incident of workplace violence. Others would argue that the legislation is necessary in order to give CHL holders the complete right to self protection envisioned when concealed handgun legislation was first passed many years ago. CHL holders argue that if they cannot store their handgun in their vehicles, they have no other choice but to leave their handgun at home. Keeping a handgun in their vehicle is the only practical place to store a weapon. If they want to protect themselves from a would-be assailant if they were to stop at a store on the way home from work, then they must have the right to store their handgun in their vehicles.

SB 321 goes into effect September 1, 2011. Employers in Texas should review their employment and security policies to make sure that their policies comply with SB 321.

This article was written by Jim Cuaderes in Littler Mendelson's Dallas office and edited for publication by G. Mark Jodon. Jim can be reached at (214) 880-8113 and jcuaderes@littler.com. Mark can be reached at (713) 652-4739 and mjodon@littler.com.

G. Mark Jodon, **Littler Mendelson, ABC Texas Gulf Coast's Chapter Labor Attorney**



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- Rigging equipment Inspection



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- Best Practices for Structural Inspections of Overhead Cranes Presented by Gary J. Davis, P.E., Director of Consulting Services, Integrated Machinery Solutions
- Case Study Presented by Jeremy Pearson, Director of Sales, USA, EOT Cranes, Industrial Locomotives, Cattron-a unit of Laird Technologies
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I-9 and Worksite Immigration Compliance Update

Date: Wednesday, July 13

Time: 2:00 p.m. (ET)/1:00 p.m. (CT)/ 12:00 p.m. (MT)/ 11:00 a.m. (PT)

Length: 75 minutes

Fee: \$99 for ABC Members

Speaker: Mary Pivec, Partner, Keller & Heckman LLP

This webinar provided by ABC National. To register: www.abc.org



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Meetings & Events for July-August 2011 ABC, CSC, MSTI

July 12	ABC PR Committee Mtg., 3:00 p.m., 104B
July 19	CSC Owner Advisory Committee and Board Mtg., 11:00 a.m., 104B
July 20	ABC Golf Committee, 3:00 p.m., 104B
July 21	MSTI Board Mtg., 3:00 p.m., 104B
Aug 4	ABC Suppliers' Committee Mtg.,
Aug 16	ABC Board Mtg., 3:00 p.m., 104B

MSTI Training/Testing Opportunities

July 8	Electrical Continuing Ed., 8:00 a. m., 104B
Daily	Study Hall - Self-Study for NCCER Craft Assessments
M, W, F	NCCER Skills Assessment, 8:00 a.m.
T, Th	NCCER Skills Assessment, 1:30 p.m.
Aug 15	CSST Classes begin—18 weeks; 6-9 p.m.
Aug 15	CMA Classes begin—18 weeks; 6-9 p.m.

