

By Senator Steube

23-00018-18

2018120\_\_

1                   A bill to be entitled  
2       An act relating to firearms; creating s. 768.38, F.S.;  
3       providing legislative intent; requiring a business,  
4       organization, or entity that prohibits a concealed  
5       weapon or firearm licensee from carrying a weapon or  
6       firearm onto its property to assume certain  
7       responsibility for the safety and defense of such  
8       licensee; providing that the responsibility of such  
9       business, organization, or entity extends to the  
10      conduct of certain people and animals; providing a  
11      cause of action for a concealed weapon or firearm  
12      licensee who incurs injury, death, damage, or loss as  
13      the result of certain acts or attacks occurring on the  
14      property of such business, organization, or entity or  
15      on other specified properties; authorizing a licensee  
16      to recover attorney fees and specified costs;  
17      specifying a statute of limitations for bringing such  
18      action; requiring a business, organization, or entity  
19      with such prohibition to clearly display specified  
20      information; specifying requirements that a plaintiff  
21      must prove to prevail in a cause of action; providing  
22      an effective date.

23  
24 Be It Enacted by the Legislature of the State of Florida:

25  
26       Section 1. Section 768.38, Florida Statutes, is created to  
27 read:

28       768.38 Responsibility of property owner.—

29       (1) The Legislature intends to find a balance between the

23-00018-18

2018120\_\_

30 right of a concealed weapon or firearm licensee to carry a  
31 concealed weapon or firearm in order to exercise the right of  
32 self-defense and the right of a property owner or entity in  
33 charge of a property to exercise control over such property.

34 (2) A business, organization, or entity, including, but not  
35 limited to, a private business or a not-for-profit entity, which  
36 prohibits a concealed weapon or firearm licensee from carrying a  
37 weapon or firearm onto the property of such business,  
38 organization, or entity assumes absolute custodial  
39 responsibility, when the licensee is prevented from carrying a  
40 weapon or firearm due to the prohibition, for the safety and  
41 defense of the licensee against any unlawful or reckless act by  
42 another person, or any attack by a vicious or wild animal, on  
43 the owner's property or on any property that the licensee is  
44 required to traverse in order to travel to and from the location  
45 where the licensee's weapon or firearm is stored.

46 (3) The responsibility of the business, organization, or  
47 entity for the safety and defense of a licensee under this  
48 section extends to the conduct of other members of the public;  
49 trespassers; employees of the business, organization, or entity;  
50 vicious animals; and wild animals.

51 (4) (a) A concealed weapon or firearm licensee who suffers  
52 bodily injury or death, incurs economic loss or expense, or  
53 incurs property damage or any other compensable loss as the  
54 result of an unlawful or reckless act by another person, or an  
55 attack by a vicious or wild animal, occurring on the property of  
56 such business, organization, or entity, or on any property that  
57 the licensee is required to traverse in order to travel to and  
58 from the location where the licensee's weapon or firearm is

23-00018-18

2018120\_\_

59 stored, while the licensee is prevented from carrying a weapon  
60 or firearm due to a prohibition by the business, organization,  
61 or entity has a cause of action against the business,  
62 organization, or entity. In addition to damages, the licensee is  
63 entitled to reasonable attorney fees, court costs, expert  
64 witness costs, and other costs necessary to bring the cause of  
65 action.

66 (b) The statute of limitations for an action brought  
67 pursuant to this section is 2 years after the date of the  
68 occurrence giving rise to the injury, death, damage, or loss.

69 (5) A business, organization, or entity that prohibits a  
70 concealed weapon or firearm licensee from carrying a weapon or  
71 firearm on its property must clearly display, along with any  
72 image or language of prohibition, notice that the licensee is  
73 under the custodial responsibility of the business,  
74 organization, or entity.

75 (6) To prevail in an action brought under this section, the  
76 plaintiff must show by a preponderance of the evidence all of  
77 the following:

78 (a) The plaintiff had a license to carry a concealed weapon  
79 or firearm under s. 790.06 or met the requirements of s. 790.015  
80 at the time of the incident giving rise to the action.

81 (b) The business, organization, or entity prohibited the  
82 plaintiff from carrying a concealed weapon or firearm on the  
83 property of the business, organization, or entity.

84 (c) The business, organization, or entity was not required  
85 to prohibit the carrying of a concealed weapon or firearm on its  
86 property pursuant to state or federal law.

87 (d) The plaintiff suffered bodily injury or death, incurred

23-00018-18

2018120\_\_

88 economic loss or expense, or incurred property damage or any  
89 other compensable loss as the result of an unlawful or reckless  
90 act by another person, or an attack by a vicious or wild animal,  
91 which occurred on the property of such business, organization,  
92 or entity, or on any property that the licensee was required to  
93 traverse in order to travel to and from the location where the  
94 licensee's weapon or firearm was stored, while the licensee was  
95 prevented from carrying a weapon or firearm due to the  
96 prohibition by the business, organization, or entity.

97 (e) Such injury, death, loss, expense, or damage resulted  
98 directly or indirectly from an unlawful or reckless act by  
99 another person, or from an attack by a vicious or wild animal,  
100 which could reasonably have been prevented but for the  
101 prohibition by the business, organization, or entity.

102 Section 2. This act shall take effect July 1, 2018.