

Bill No. SB 206

Barcode 943318

CHAMBER ACTION

Senate

House

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The Committee on Criminal Justice (Haridopolos) recommended
the following amendment:

Senate Amendment (with title amendment)

Delete everything after the enacting clause

and insert:

Section 1. Section 790.251, Florida Statutes, is
created to read:

790.251 Privacy and personal property protection;
storage and transport of personal property locked inside or
locked to a motor vehicle in a parking area; penalty; immunity
from liability.--

(1) SHORT TITLE.--This act may be cited as the
"Individual Personal Private Property Protection Act."

(2) LEGISLATIVE INTENT.--This act is intended to
codify the longstanding legislative policy of this state that:

(a) Citizens have a constitutional right to privacy;

(b) Citizens have a constitutional right to possess
and securely keep legal private property within their motor
vehicles, particularly such property as is necessary for or

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1 incidental to their exercise of other constitutional rights;

2 and

3 (c) These rights are not abrogated by virtue of a
4 citizen's becoming a customer, employee, or invitee of a
5 business entity.

6 (3) LEGISLATIVE FINDINGS.--The Legislature finds that
7 citizens' lawful possession, transportation, and secure
8 keeping of certain private property within their motor
9 vehicles is essential to the exercise of fundamental
10 constitutional rights, including freedom of speech, freedom of
11 association, the free exercise of religion, and to keep and
12 bear arms. The Legislature finds that securing individual
13 private property rights is essential. The Legislature further
14 finds that a citizen is not required and should not be
15 required to waive or abrogate his or her right to possess and
16 securely keep such constitutionally significant private
17 property locked within his or her motor vehicle by virtue of
18 becoming a customer, employee, or invitee of an employer or a
19 business establishment within the state.

20 (4) DEFINITIONS.--As used in this section, the term:

21 (a) "Aggrieved person" means any customer, employee,
22 or invitee as defined in this subsection.

23 (b) "Employee" means a person who works for salary,
24 wages, or other remuneration; is an independent contractor; or
25 is a volunteer, intern, or other similar individual for an
26 employer.

27 (c) "Employer" means a business that is a sole
28 proprietorship, partnership, corporation, limited liability
29 company, professional association, cooperative, joint venture,
30 trust, firm, institution, association, or public-sector
31 entity, which has employees.

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1 (d) "Invitee" means any business invitee, including a
2 customer or visitor, who is lawfully on the premises.

3 (e) "Motor vehicle" means any automobile, truck
4 minivan, sports utility vehicle, motor home, recreational
5 vehicle, motorcycle, or motor scooter, or any other vehicle,
6 which is operated on the roads of this state and is required
7 to be registered under Florida law.

8 (f) "Parking lot" means any property that is owned or
9 leased by an employer, or a landlord of an employer, and used
10 for parking motor vehicles and that is available to customers,
11 employees, or invitees for temporary or long-term parking or
12 storage of motor vehicles.

13 (5) PROHIBITED ACTS.--A public or private entity may
14 not violate the constitutional rights of any customer,
15 employee, or invitee as provided in this subsection:

16 (a) A public or private entity may not prohibit any
17 customer, employee, or invitee from possessing any personal
18 private property that is a legal product, including, but not
19 limited to, a Bible, Koran, other religious books or
20 materials, legal firearm, hunting knife, bow and arrow, or
21 other lawful weapon if such a product is lawfully possessed
22 and locked inside or locked to a private motor vehicle in a
23 parking lot when the customer, employee, or invitee is
24 lawfully in such area.

25 (b) A public or private entity may not violate the
26 privacy rights of a customer, employee, or invitee by verbal
27 inquiry or actual search of a private motor vehicle in a
28 parking lot. A search of a private motor vehicle may be
29 conducted only by law enforcement personnel and must be based
30 upon due process.

31 (c) An employer may not condition employment upon

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1 preventing or prohibiting, or otherwise attempt to prevent or
2 prohibit, any customer, employee, or invitee from keeping
3 locked within the trunk, glove box, other enclosed
4 compartment, or area out of sight within a motor vehicle any
5 property or material the lawful possession of which is
6 protected by, or the lawful use of which is incidental to, the
7 exercise of individual rights protected under the United
8 States Constitution and the State Constitution.

9 (d) An employer may not terminate the employment of or
10 otherwise discriminate against an employee, or expel a
11 customer or invitee, for exercising his or her constitutional
12 right to keep and bear arms or the right of self-defense as
13 long as a firearm is never exhibited on company property
14 except for lawful defensive purposes.

15
16 This section applies to all public-sector employers, including
17 those that are already prohibited from regulating firearms
18 under s. 790.33.

19 (6) IMMUNITY FROM LEGAL LIABILITY.--An employer or a
20 landlord of an employer is not liable in any civil action or
21 other action that arises, directly or indirectly, out of or
22 results from the theft of or threatened use or accidental or
23 criminal use of a firearm or any other legal property that was
24 stored in the private motor vehicle by a customer, employee,
25 or invitee in a parking lot or on any property owned or leased
26 by an employer or the landlord of an employer. The immunity
27 provided in this subsection does not apply to a person who
28 uses or threatens to use a firearm or other weapon in a
29 criminal act. The immunity provided in this subsection does
30 not apply if the harm involved was caused, in whole or in
31 part, by the willful or criminal misconduct of the employer or

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1 the landlord of the employer.

2 (7) ENFORCEMENT.--The Attorney General shall enforce
 3 the protections of this act on behalf of an aggrieved person
 4 if there is reasonable cause to believe that the customer,
 5 employee, or invitee's rights under this act have been
 6 violated by a public or private entity and shall commence a
 7 civil or administrative action for damages, injunctive relief,
 8 or civil penalties, and such other relief as may be
 9 appropriate under the laws of this state pursuant to s.
 10 760.51, or may negotiate a settlement with an employer on
 11 behalf of an aggrieved person.

12 (8) The prohibitions in subsection (5) do not apply
 13 to:

14 (a) Property owned or leased by an employer, or the
 15 landlord of an employer, upon which are conducted substantial
 16 activities involving national defense, aerospace, or domestic
 17 security if the presence of such private property in a parking
 18 lot presents an increased danger of explosion or reasonably
 19 predictable catastrophic event.

20 (b) Property owned or leased by an employer, or the
 21 landlord of an employer, upon which the primary business
 22 conducted is the manufacture, use, storage, or transportation
 23 of combustible or explosive materials regulated under state or
 24 federal law if the presence of such products in a parking lot
 25 presents an increased danger of explosion or reasonably
 26 predictable catastrophic event.

27 (c) A motor vehicle owned, leased, or rented by an
 28 employer, or the landlord of an employer, or its agent.

29 (d) Any other property owned or leased by an employer,
 30 or the landlord of an employer, if a customer, employee, or
 31 invitee is prohibited from having a firearm or other legal

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1 product pursuant to any federal law or any general law of this
2 state existing on the effective date of this act.

3 (e) Any school property as defined and regulated under
4 s. 790.115.

5 (f) Any prison-facility grounds as defined and
6 regulated under s. 944.47.

7 (g) Uses of firearms and other weapons which are
8 prohibited under s. 790.25(2). The restrictions provided in
9 that subsection are not affected by this section.

10 Section 2. This act shall take effect upon becoming a
11 law and shall apply to causes of action that accrue on or
12 after that date.

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15 ===== T I T L E A M E N D M E N T =====

16 And the title is amended as follows:

17 Delete everything before the enacting clause

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19 and insert:

20 A bill to be entitled
21 An act relating to the protection of
22 constitutional rights; creating s. 790.251,
23 F.S.; creating the "Individual Personal Private
24 Property Protection Act"; providing legislative
25 intent and legislative findings; defining
26 terms; prohibiting a public or private entity
27 from violating the constitutional rights of a
28 customer, employee, or invitee by prohibiting
29 or otherwise deterring that person from having
30 certain lawful items locked in or to the
31 person's private motor vehicle while it is in a

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1 parking lot or by discouraging exercise of the
2 right to keep and bear arms; providing immunity
3 from legal liability to an employer or landlord
4 of an employer for certain acts arising out of
5 another person's storing legal property in a
6 private motor vehicle parked on the employer's
7 or landlord's property; requiring the Attorney
8 General to enforce this section on behalf of an
9 aggrieved person; providing exceptions to the
10 prohibitions imposed by the act; providing an
11 effective date.

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