

By Senator Peadar

2-113A-06

See HB 129

1                                   A bill to be entitled  
 2           An act relating to lawful ownership,  
 3           possession, and use of firearms and other  
 4           weapons; amending s. 790.25, F.S.; prohibiting  
 5           specified persons, employers, and business  
 6           entities from establishing, maintaining, or  
 7           enforcing any policy or rule that prohibits a  
 8           person from parking a motor vehicle on property  
 9           set aside for such purpose when a secured  
 10          firearm or firearms are being lawfully  
 11          transported and stored in the motor vehicle;  
 12          providing a penalty; providing construction;  
 13          providing for specified immunity from  
 14          liability; providing civil remedies; defining  
 15          "motor vehicle" for purposes of the act;  
 16          providing intent; amending s. 27.53, F.S.;  
 17          conforming a cross-reference; providing an  
 18          effective date.

19  
20 Be It Enacted by the Legislature of the State of Florida:

21  
22           Section 1. Section 790.25, Florida Statutes, is  
23 amended to read:

24           790.25 Lawful ownership, possession, and use of  
25 firearms and other weapons.--

26           (1) DECLARATION OF POLICY.--The Legislature finds as a  
27 matter of public policy and fact that it is necessary to  
28 promote firearms safety and to curb and prevent the use of  
29 firearms and other weapons in crime and by incompetent persons  
30 without prohibiting the lawful use in defense of life, home,  
31 and property, and the use by United States or state military

1 organizations, and as otherwise now authorized by law,  
2 including the right to use and own firearms for target  
3 practice and marksmanship on target practice ranges or other  
4 lawful places, and lawful hunting and other lawful purposes.

5 (2) USES NOT AUTHORIZED.--

6 (a) This section does not authorize carrying a  
7 concealed weapon without a permit, as prohibited by ss. 790.01  
8 and 790.02.

9 (b) The protections of this section do not apply to  
10 the following:

11 1. A person who has been adjudged mentally  
12 incompetent, who is addicted to the use of narcotics or any  
13 similar drug, or who is a habitual or chronic alcoholic, or a  
14 person using weapons or firearms in violation of ss.  
15 790.07-790.12, 790.14-790.19, 790.22-790.24.+

16 2. Vagrants and other undesirable persons as defined  
17 in s. 856.02.+

18 3. A person in or about a place of nuisance as defined  
19 in s. 823.05, unless such person is there for law enforcement  
20 or some other lawful purpose.

21 (3) LAWFUL USES.--The provisions of ss. 790.053 and  
22 790.06 do not apply in the following instances, and, despite  
23 such sections, it is lawful for the following persons to own,  
24 possess, and lawfully use firearms and other weapons,  
25 ammunition, and supplies for lawful purposes:

26 (a) Members of the Militia, National Guard, Florida  
27 State Defense Force, Army, Navy, Air Force, Marine Corps,  
28 Coast Guard, organized reserves, and other armed forces of the  
29 state and of the United States, when on duty, when training or  
30 preparing themselves for military duty, or while subject to  
31 recall or mobilization.+

1           (b) Citizens of this state subject to duty in the  
2 Armed Forces under s. 2, Art. X of the State Constitution,  
3 under chapters 250 and 251, and under federal laws, when on  
4 duty or when training or preparing themselves for military  
5 duty.†

6           (c) Persons carrying out or training for emergency  
7 management duties under chapter 252.†

8           (d) Sheriffs, marshals, prison or jail wardens, police  
9 officers, Florida highway patrol officers, game wardens,  
10 revenue officers, forest officials, special officers appointed  
11 under the provisions of chapter 354, and other peace and law  
12 enforcement officers and their deputies and assistants and  
13 full-time paid peace officers of other states and of the  
14 Federal Government who are carrying out official duties while  
15 in this state.†

16           (e) Officers or employees of the state or United  
17 States duly authorized to carry a concealed weapon.†

18           (f) Guards or messengers of common carriers, express  
19 companies, armored car carriers, mail carriers, banks, and  
20 other financial institutions, while actually employed in and  
21 about the shipment, transportation, or delivery of any money,  
22 treasure, bullion, bonds, or other thing of value within this  
23 state.†

24           (g) Regularly enrolled members of any organization  
25 duly authorized to purchase or receive weapons from the United  
26 States or from this state, or regularly enrolled members of  
27 clubs organized for target, skeet, or trap shooting, while at  
28 or going to or from shooting practice; or regularly enrolled  
29 members of clubs organized for modern or antique firearms  
30 collecting, while such members are at or going to or from  
31 their collectors' gun shows, conventions, or exhibits.†

1           (h) A person engaged in fishing, camping, or lawful  
2 hunting or going to or returning from a fishing, camping, or  
3 lawful hunting expedition.†

4           (i) A person engaged in the business of manufacturing,  
5 repairing, or dealing in firearms, or the agent or  
6 representative of any such person while engaged in the lawful  
7 course of such business.†

8           (j) A person firing weapons for testing or target  
9 practice under safe conditions and in a safe place not  
10 prohibited by law or going to or from such place.†

11           (k) A person firing weapons in a safe and secure  
12 indoor range for testing and target practice.†

13           (l) A person traveling by private conveyance when the  
14 weapon is securely encased or in a public conveyance when the  
15 weapon is securely encased and not in the person's manual  
16 possession.†

17           (m) A person parking a motor vehicle on any property  
18 set aside for the parking of a motor vehicle, whether or not  
19 such property is designated as a parking lot, parking  
20 facility, or parking space, when a firearm or firearms are  
21 being lawfully stored and transported in the motor vehicle and  
22 the firearm or firearms are locked in or locked to the motor  
23 vehicle.

24           ~~(n)(m)~~ A person while carrying a pistol unloaded and  
25 in a secure wrapper, concealed or otherwise, from the place of  
26 purchase to his or her home or place of business or to a place  
27 of repair or back to his or her home or place of business.†

28           ~~(o)(n)~~ A person possessing arms at his or her home or  
29 place of business.†

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31

1           ~~(p)~~~~(e)~~ Investigators employed by the several public  
2 defenders of the state, while actually carrying out official  
3 duties, provided such investigators:

- 4           1. Are employed full time;
- 5           2. Meet the official training standards for firearms  
6 established by the Criminal Justice Standards and Training  
7 Commission as provided in s. 943.12(5) and the requirements of  
8 ss. 493.6108(1)(a) and 943.13(1)-(4); and
- 9           3. Are individually designated by an affidavit of  
10 consent signed by the employing public defender and filed with  
11 the clerk of the circuit court in the county in which the  
12 employing public defender resides.

13           ~~(q)~~~~(p)~~ Investigators employed by the capital  
14 collateral representative, while actually carrying out  
15 official duties, provided such investigators:

- 16           1. Are employed full time;
- 17           2. Meet the official training standards for firearms  
18 as established by the Criminal Justice Standards and Training  
19 Commission as provided in s. 943.12(1) and the requirements of  
20 ss. 493.6108(1)(a) and 943.13(1)-(4); and
- 21           3. Are individually designated by an affidavit of  
22 consent signed by the capital collateral representative and  
23 filed with the clerk of the circuit court in the county in  
24 which the investigator is headquartered.

25           (4) CONSTRUCTION.--This act shall be liberally  
26 construed to carry out the declaration of policy herein and in  
27 favor of the constitutional right to keep and bear arms for  
28 lawful purposes. This act is supplemental and additional to  
29 existing rights to bear arms now guaranteed by law and  
30 decisions of the courts of Florida, and nothing herein shall  
31 impair or diminish any of such rights. This act shall

1 | supersede any law, ordinance, or regulation in conflict  
2 | herewith.

3 |           (5) POSSESSION IN PRIVATE CONVEYANCE.--Notwithstanding  
4 | subsection (2), it is lawful and is not a violation of s.  
5 | 790.01 for a person 18 years of age or older to possess a  
6 | concealed firearm or other weapon for self-defense or other  
7 | lawful purpose within the interior of a private conveyance,  
8 | without a license, if the firearm or other weapon is securely  
9 | encased or is otherwise not readily accessible for immediate  
10 | use. Nothing herein contained prohibits the carrying of a  
11 | legal firearm other than a handgun anywhere in a private  
12 | conveyance when such firearm is being carried for a lawful  
13 | use. Nothing herein contained shall be construed to authorize  
14 | the carrying of a concealed firearm or other weapon on the  
15 | person. This subsection shall be liberally construed in favor  
16 | of the lawful use, ownership, and possession of firearms and  
17 | other weapons, including lawful self-defense as provided in s.  
18 | 776.012.

19 |           (6) STORAGE AND TRANSPORT OF FIREARMS IN LOCKED  
20 | VEHICLE IN PARKING AREA; PENALTY; IMMUNITY FROM LIABILITY.--

21 |           (a) No person, property owner, tenant, employer, or  
22 | business entity shall establish, maintain, or enforce any  
23 | policy or rule that prohibits or has the effect of prohibiting  
24 | any person who may lawfully possess, purchase, receive, or  
25 | transfer firearms from parking a motor vehicle on any property  
26 | set aside for the parking of a motor vehicle, whether or not  
27 | such property is designated as a parking lot, parking  
28 | facility, or parking space, when the person is lawfully  
29 | transporting and storing a firearm or firearms in the motor  
30 | vehicle and the firearm or firearms are locked in or locked to  
31 | the motor vehicle. Any person, property owner, tenant,

1 employer, or owner of a business entity who violates this  
2 paragraph commits a felony of the third degree, punishable as  
3 provided in s. 775.082, s. 775.083, or s. 775.084. This  
4 subsection shall be liberally construed in favor of the lawful  
5 use, ownership, and possession of firearms and other weapons,  
6 including lawful self-defense as provided in s. 776.012.

7 (b) No person, property owner, tenant, employer, or  
8 business entity shall be liable in any civil action for any  
9 occurrence which results from, is connected with, or is  
10 incidental to the use of a firearm which is being lawfully  
11 transported and stored in a locked motor vehicle on any  
12 property set aside for the parking of motor vehicles as  
13 provided in paragraph (a), unless the person, property owner,  
14 tenant, employer, or owner of the business entity commits a  
15 criminal act involving the use of such firearm.

16 (c)1. A person who is injured, physically or  
17 otherwise, as a result of any policy or rule prohibited by  
18 paragraph (a) may bring a civil action in the appropriate  
19 court against any person, property owner, tenant, employer, or  
20 business entity violating the provisions of paragraph (a),  
21 including an action to enforce this subsection. If a plaintiff  
22 prevails in a civil action related to a policy or rule  
23 prohibited by this act, the court shall award actual damages,  
24 enjoin further violations of this act, and award court costs  
25 and attorney's fees to the prevailing plaintiff.

26 2. An employee discharged by an employer or business  
27 entity for violation of a policy or rule prohibited under  
28 paragraph (a), when such employee was lawfully transporting or  
29 storing a firearm in a locked motor vehicle on property set  
30 aside by the employer or business entity for the parking of  
31 motor vehicles as provided in paragraph (a), is entitled to

1 full recovery as specified in sub-subparagraphs a.-d. In the  
2 event the demand for such recovery is denied, the employee may  
3 bring a civil action in the courts of this state against the  
4 employer and is entitled to:

5 a. Reinstatement to the same position held at the time  
6 of his or her termination from employment, or to an equivalent  
7 position.

8 b. Reinstatement of the employee's full fringe  
9 benefits and seniority rights, as appropriate.

10 c. Compensation, if appropriate, for lost wages,  
11 benefits, or other lost remuneration caused by the  
12 termination.

13 d. Payment of reasonable attorney's fees and costs  
14 incurred.

15 (d) As used in this section, "motor vehicle" means any  
16 automobile, truck, minivan, sports utility vehicle,  
17 motorcycle, motor scooter, or any other vehicle required to be  
18 registered under Florida law.

19 (e) It is the intent of this subsection to reinforce  
20 and protect the right of each law-abiding citizen to enter and  
21 exit any parking lot, parking facility, or space used for the  
22 parking of motor vehicles while such person is lawfully  
23 transporting and storing a firearm or firearms in the motor  
24 vehicle and the firearm or firearms are locked in or locked to  
25 the motor vehicle, to avail himself or herself of temporary or  
26 long-term parking or storage of a motor vehicle, and to  
27 prohibit any infringement of the right to lawful possession of  
28 firearms when such firearms are being transported and stored  
29 in a vehicle for a lawful purpose.

30 Section 2. Subsection (1) of section 27.53, Florida  
31 Statutes, is amended to read:



1           27.53 Appointment of assistants and other staff;  
2 method of payment.--

3           (1) The public defender of each judicial circuit is  
4 authorized to employ and establish, in such numbers as  
5 authorized by the General Appropriations Act, assistant public  
6 defenders and other staff and personnel pursuant to s. 29.006,  
7 who shall be paid from funds appropriated for that purpose.  
8 Notwithstanding the provisions of s. 790.01, s. 790.02, or s.  
9 790.25(2)(a), an investigator employed by a public defender,  
10 while actually carrying out official duties, is authorized to  
11 carry concealed weapons if the investigator complies with s.  
12 790.25(3)(p)~~(o)~~. However, such investigators are not eligible  
13 for membership in the Special Risk Class of the Florida  
14 Retirement System. The public defenders of all judicial  
15 circuits shall jointly develop a coordinated classification  
16 and pay plan which shall be submitted on or before January 1  
17 of each year to the Justice Administrative Commission, the  
18 office of the President of the Senate, and the office of the  
19 Speaker of the House of Representatives. Such plan shall be  
20 developed in accordance with policies and procedures of the  
21 Executive Office of the Governor established in s. 216.181.  
22 Each assistant public defender appointed by a public defender  
23 under this section shall serve at the pleasure of the public  
24 defender. Each investigator employed by a public defender  
25 shall have full authority to serve any witness subpoena or  
26 court order issued, by any court or judge within the judicial  
27 circuit served by such public defender, in a criminal case in  
28 which such public defender has been appointed to represent the  
29 accused.

30           Section 3. This act shall take effect upon becoming a  
31 law.