

By the Committee on Criminal Justice; and Senators Peaden and Baker

591-2233A-07

1 A bill to be entitled
2 An act relating to the "Individual Personal
3 Private Property Protection Act of 2007";
4 creating s. 790.251, F.S.; creating the
5 "Individual Personal Private Property
6 Protection Act of 2007"; providing legislative
7 findings and intent; prohibiting a public or
8 private entity from prohibiting a customer,
9 employee, or invitee from possessing any
10 personal private property that is a legal
11 product when such product is lawfully possessed
12 and locked inside or locked to a private motor
13 vehicle in a parking lot; prohibiting a public
14 or private entity from violating the privacy
15 rights of a customer, employee, or invitee by
16 verbal or written inquiry or actual search of a
17 private motor vehicle in a parking lot;
18 prohibiting actions against a customer,
19 employee, or invitee based upon verbal or
20 written statements concerning the presence of
21 personal private possessions inside a private
22 motor vehicle; prohibiting an employer from
23 conditioning employment upon an agreement by a
24 prospective employee that prohibits employees
25 from entering the parking lot of the employer's
26 place of business when the employee's motor
27 vehicle contains specified products;
28 prohibiting an employer from attempting to
29 prevent or prohibiting any customer, employee,
30 or invitee from entering the parking lot of the
31 employer's place of business when the

1 employee's motor vehicle contains specified
2 products; prohibiting employers from
3 terminating the employment of or otherwise
4 discriminating against an employee, or
5 expelling a customer or invitee, for exercising
6 his or her constitutional right to bear arms or
7 exercising the right of self-defense; providing
8 that such prohibitions apply to all
9 public-sector employers; providing specified
10 immunity from liability for employers and
11 landlords of employers; enumerating specific
12 actions that employers are not required to
13 take; providing for enforcement of the act;
14 providing definitions; providing applicability;
15 providing an effective date.

16
17 Be It Enacted by the Legislature of the State of Florida:

18
19 Section 1. Section 790.251, Florida Statutes, is
20 created to read:

21 790.251 Privacy and personal property protection;
22 storage of personal property locked inside or locked to a
23 motor vehicle in a parking area; prohibited acts; immunity
24 from liability; enforcement.--

25 (1) LEGISLATIVE INTENT; FINDINGS.--This act is
26 intended to codify the long-standing legislative policy of the
27 state that citizens have a constitutional right to privacy,
28 that they have a constitutional right to possess and securely
29 keep legal private property within their motor vehicles, out
30 of sight, particularly such property as is necessary for or
31 incidental to their exercise of other constitutional rights,

1 and that these rights are not abrogated by virtue of a citizen
2 becoming a customer, employee, or invitee of a business
3 entity. It is the finding of the Legislature that a citizen's
4 lawful possession, transportation, and secure keeping of
5 certain private property within his or her motor vehicle is
6 essential to the exercise of fundamental constitutional
7 rights, including freedom of speech, freedom of association,
8 the free exercise of religion, and the right to keep and bear
9 arms. The Legislature finds that securing individual private
10 property rights is essential. The Legislature further finds
11 that no citizen is or should be required to waive or abrogate
12 his or her right to possess and securely keep such
13 constitutionally significant private property locked within
14 his or her motor vehicle by virtue of becoming a customer,
15 employee, or invitee of any employer or business establishment
16 within the state.

17 (2) PROHIBITED ACTS.--No public or private entity may
18 violate the constitutional rights of any customer, employee,
19 or invitee as provided in paragraphs (a)-(e):

20 (a) No public or private entity may prohibit any
21 customer, employee, or invitee from possessing any personal
22 private property that is a legal product when such product is
23 lawfully possessed and locked inside or locked to a private
24 motor vehicle, out of sight, in a parking lot and when the
25 customer, employee, or invitee is lawfully in such area.

26 (b) No public or private entity may violate the
27 privacy rights of a customer, employee, or invitee by verbal
28 or written inquiry regarding the presence of personal private
29 possessions inside a private motor vehicle in a parking lot or
30 by an actual search of a private motor vehicle in a parking
31 lot. Further, no public or private entity may take any action

1 against a customer, employee, or invitee based upon verbal or
2 written statements of any party concerning the presence of
3 personal private possessions inside a private motor vehicle in
4 a parking lot. Searches of private motor vehicles may only be
5 conducted by on-duty law enforcement personnel based upon due
6 process and must comply with constitutional protections.

7 (c) No employer shall condition employment upon any
8 agreement by a prospective employee that prohibits an employee
9 from entering the parking lot of the employer's place of
10 business when the employee's motor vehicle contains any
11 product that is locked out of sight within the trunk, glove
12 box, or other enclosed compartment or area within his or her
13 motor vehicle, the lawful possession of which is protected by,
14 or the lawful use of which is incidental to, the exercise of
15 individual rights protected under the United States
16 Constitution or the Florida Constitution.

17 (d) No employer shall attempt to prevent or prohibit
18 any customer, employee, or invitee from entering the parking
19 lot of the employer's place of business when the customer's,
20 employee's, or invitee's motor vehicle contains any product
21 that is locked out of sight within the trunk, glove box, or
22 other enclosed compartment or area within his or her motor
23 vehicle, the lawful possession of which is protected by, or
24 the lawful use of which is incidental to, the exercise of
25 individual rights protected under the United States
26 Constitution or the Florida Constitution.

27 (e) No employer may terminate the employment of or
28 otherwise discriminate against an employee, or expel a
29 customer or invitee, for exercising his or her constitutional
30 right to bear arms or for exercising the right of self-defense
31

1 as long as a firearm is never exhibited on company property
2 for any reason other than lawful defensive purposes.

3
4 This subsection applies to all public-sector employers,
5 including those already prohibited from regulating firearms
6 under the provisions of s. 790.33.

7 (3) IMMUNITY FROM LIABILITY.--

8 (a) Except for public or private entities and
9 employers subject to the exceptions of subsection (6), a
10 public or private entity or employer has no duty to:

11 1. Prohibit any customer, employee, or invitee from
12 possessing legal personal private property in a locked motor
13 vehicle in the entity's or employer's parking lot;

14 2. Search a motor vehicle in the entity's or
15 employee's parking lot or inquire regarding personal private
16 possessions in a locked motor vehicle in the entity's or
17 employer's parking lot;

18 3. Condition employment upon an agreement regarding
19 the employee's legal personal private property in a locked
20 motor vehicle in the entity's or employer's parking lot; or

21 4. Terminate the employment of an employee for
22 exercising his or her right to bear arms or for exercising the
23 right of self-defense as long as a firearm is never exhibited
24 on company property for any reason other than lawful defensive
25 purposes.

26 (b) Except for public or private entities and
27 employers subject to the exceptions of subsection (6), a
28 public or private entity or employer is not liable in a civil
29 action based on actions or inactions taken in compliance with
30 this section. The immunity provided in this subsection does
31 not apply to civil actions based on actions or inactions of

1 public or private entities or employers which are unrelated to
2 compliance with this section.

3 (4) ENFORCEMENT.--The Attorney General shall enforce
4 the protections of this act on behalf of any customer,
5 employee, or invitee aggrieved under this act if there is
6 reasonable cause to believe that the aggrieved person's rights
7 under this act have been violated by a public or private
8 entity. In such cases, the Attorney General shall commence a
9 civil or administrative action for damages, injunctive relief
10 and civil penalties, and such other relief as may be
11 appropriate under the provisions of s. 760.51, or may
12 negotiate a settlement with any employer on behalf of any
13 person aggrieved under the act. However, nothing in this act
14 shall prohibit the right of a person aggrieved under this act
15 to bring a civil action for violation of rights protected
16 under the act.

17 (5) DEFINITIONS.--As used in this section, the term:

18 (a) "Parking lot" means any property owned or leased
19 by an employer or the landlord of an employer that is used for
20 parking motor vehicles and is available to customers,
21 employees, or invitees for temporary or long-term parking or
22 storage of motor vehicles.

23 (b) "Motor vehicle" means any automobile, truck,
24 minivan, sports utility vehicle, motor home, recreational
25 vehicle, motorcycle, motor scooter, or any other vehicle
26 operated on the roads of this state and required to be
27 registered under state law.

28 (c) "Employee" means any person who:

- 29 1. Works for salary, wages, or other remuneration;
30 2. Is an independent contractor; or
31 3. Is a volunteer, intern, or other similar individual

1
2 for an employer.

3 (d) "Employer" means any business that is a sole
4 proprietorship, partnership, corporation, limited liability
5 company, professional association, cooperative, joint venture,
6 trust, firm, institution, or association, or public-sector
7 entity, that has employees.

8 (e) "Invitee" means any business invitee, including a
9 customer or visitor, who is lawfully on the premises of an
10 entity described in paragraph (d).

11 (6) EXCEPTIONS.--The prohibitions in subsection (2) do
12 not apply to:

13 (a) Property owned or leased by an employer or the
14 landlord of an employer upon which are conducted substantial
15 activities involving national defense, aerospace, or domestic
16 security.

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

24 (c) A motor vehicle owned, leased, or rented by an
25 employer or the landlord of an employer.

26 (d) Any other property owned or leased by an employer
27 or the landlord of an employer upon which possession of a
28 firearm or other legal product by a customer, employee, or
29 invitee is prohibited pursuant to any federal law or any
30 general law of this state on the effective date of this act.

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1 (e) Any school property as defined and regulated under
2 s. 790.115.

3 (f) Any state correctional institution regulated under
4 s. 944.47.

5 (7) SHORT TITLE.--This section may be cited as "The
6 Individual Personal Private Property Protection Act of 2007."

7 Section 2. This act shall take effect upon becoming a
8 law and shall apply to causes of action accruing on or after
9 that date.

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11 STATEMENT OF SUBSTANTIAL CHANGES CONTAINED IN
12 COMMITTEE SUBSTITUTE FOR
13 Senate Bill 2356

- 14 - The Immunity from Liability section of the bill is
15 clarified by enumerating the duties which will not be
16 statutorily required of certain entities under the
17 provisions of the bill. The Committee Substitute does not
18 statutorily excuse the entities set forth in subsection
19 (6) (listed as "Exceptions") from these duties.
20
21 - The exceptions of properties upon which the bill's
22 prohibitions would not apply are clarified by omitting
23 the requirement that on certain listed properties that
24 "the presence of any legally possessed product in a
25 parking lot presents an increased danger of explosion or
26 reasonably predictable catastrophic event."
27
28 - The application of the bill is also narrowed to personal
29 property kept "out of sight." This requirement was a part
30 of the original bill in two references to the manner in
31 which the personal property is to be stored in a vehicle,
and has been added by the Committee Substitute to conform
references in other parts of the bill.