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CHAMBER ACTION

Senate

House

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Floor: 1/AD/2R
4/3/2008 1:16 PM

1 Senator Peaden moved the following **amendment**:

2
3 **Senate Amendment (with title amendment)**

4 Delete lines 51 through 118

5 and insert:

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

8 790.251 Protection of the right to keep and bear arms in
9 motor vehicles for self-defense and other lawful purposes;
10 prohibited acts; duty of public and private employers; immunity
11 from liability; enforcement.--

12 (1) SHORT TITLE.--This section may be cited as the
13 "Preservation and Protection of the Right to Keep and Bear Arms
14 in Motor Vehicles Act of 2008."

15 (2) DEFINITIONS.--As used in this section, the term:

16 (a) "Parking lot" means any property that is used for
17 parking motor vehicles and is available to customers, employees,



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18 or invitees for temporary or long-term parking or storage of
19 motor vehicles.

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

25 (c) "Employee" means any person who possesses a valid
26 license issued pursuant to s. 790.06 and:

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

31 (d) "Employer" means any business that is a sole
32 proprietorship, partnership, corporation, limited liability
33 company, professional association, cooperative, joint venture,
34 trust, firm, institution, or association, or public-sector
35 entity, that has employees.

36 (e) "Invitee" means any business invitee, including a
37 customer or visitor, who is lawfully on the premises of a public
38 or private employer.

39
40 As used in this section, the term "firearm" includes ammunition
41 and accoutrements attendant to the lawful possession and use of a
42 firearm.

43 (3) LEGISLATIVE INTENT; FINDINGS.--This act is intended to
44 codify the long-standing legislative policy of the state that
45 individual citizens have a constitutional right to keep and bear
46 arms, that they have a constitutional right to possess and keep
47 legally owned firearms within their motor vehicles for self-



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48 defense and other lawful purposes, and that these rights are not
49 abrogated by virtue of a citizen becoming a customer, employee,
50 or invitee of a business entity. It is the finding of the
51 Legislature that a citizen's lawful possession, transportation,
52 and secure keeping of firearms and ammunition within his or her
53 motor vehicle is essential to the exercise of the fundamental
54 constitutional right to keep and bear arms and the constitutional
55 right of self-defense. The Legislature finds that protecting and
56 preserving these rights is essential to the exercise of freedom
57 and individual responsibility. The Legislature further finds that
58 no citizen can or should be required to waive or abrogate his or
59 her right to possess and securely keep firearms and ammunition
60 locked within his or her motor vehicle by virtue of becoming a
61 customer, employee, or invitee of any employer or business
62 establishment within the state, unless specifically required by
63 state or federal law.

64 (4) PROHIBITED ACTS.--No public or private employer may
65 violate the constitutional rights of any customer, employee, or
66 invitee as provided in paragraphs (a)-(e):

67 (a) No public or private employer may prohibit any
68 customer, employee, or invitee from possessing any legally owned
69 firearm when such firearm is lawfully possessed and locked inside
70 or locked to a private motor vehicle in a parking lot and when
71 the customer, employee, or invitee is lawfully in such area.

72 (b) No public or private employer may violate the privacy
73 rights of a customer, employee, or invitee by verbal or written
74 inquiry regarding the presence of a firearm inside or locked to a
75 private motor vehicle in a parking lot or by an actual search of
76 a private motor vehicle in a parking lot to ascertain the
77 presence of a firearm within the vehicle. Further, no public or



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78 private employer may take any action against a customer,
79 employee, or invitee based upon verbal or written statements of
80 any party concerning possession of a firearm stored inside a
81 private motor vehicle in a parking lot for lawful purposes. A
82 search of a private motor vehicle in the parking lot of a public
83 or private employer to ascertain the presence of a firearm within
84 the vehicle may only be conducted by on-duty law enforcement
85 personnel, based upon due process and must comply with
86 constitutional protections.

87 (c) No public or private employer shall condition
88 employment upon either:

89 1. The fact that an employee or prospective employee holds
90 or does not hold a license issued pursuant to s. 790.06; or

91 2. Any agreement by an employee or a prospective employee
92 that prohibits an employee from keeping a legal firearm locked
93 inside or locked to a private motor vehicle in a parking lot when
94 such firearm is kept for lawful purposes.

95 (d) No public or private employer shall prohibit or attempt
96 to prevent any customer, employee, or invitee from entering the
97 parking lot of the employer's place of business because the
98 customer's, employee's, or invitee's private motor vehicle
99 contains a legal firearm being carried for lawful purposes, that
100 is out of sight within the customer's, employee's, or invitee's
101 private motor vehicle.

102 (e) No public or private employer may terminate the
103 employment of or otherwise discriminate against an employee, or
104 expel a customer or invitee for exercising his or her
105 constitutional right to keep and bear arms or for exercising the
106 right of self-defense as long as a firearm is never exhibited on



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107 company property for any reason other than lawful defensive
108 purposes.

109
110 This subsection applies to all public-sector employers, including
111 those already prohibited from regulating firearms under the
112 provisions of s. 790.33.

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114
115 ===== T I T L E A M E N D M E N T =====

116 And the title is amended as follows:

117
118 Delete lines 1 through 38
119 and insert:

120 A bill to be entitled
121 An act relating to the "Preservation and Protection of the
122 Right to Keep and Bear Arms in Motor Vehicles Act of
123 2008"; creating s. 790.251, F.S.; creating the
124 "Preservation and Protection of the Right to Keep and Bear
125 Arms in Motor Vehicles Act of 2008"; providing
126 definitions; providing legislative findings and intent;
127 prohibiting a public or private employer from prohibiting
128 a customer, employee, or invitee from possessing any
129 legally owned firearm that is lawfully possessed and
130 locked inside or locked to a private motor vehicle in a
131 parking lot; prohibiting a public or private employer from
132 violating the privacy rights of a customer, employee, or
133 invitee by verbal or written inquiry regarding the
134 presence of a firearm inside or locked to a private motor
135 vehicle in a parking lot or by the search of a private
136 motor vehicle in a parking lot to ascertain the presence



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137 | of a firearm within the vehicle; prohibiting actions by a
138 | public or private employer against a customer, employee,
139 | or invitee based upon verbal or written statements
140 | concerning possession of a firearm stored inside a private
141 | motor vehicle in a parking lot for lawful purposes;
142 | providing conditions under which a search of a private
143 | motor vehicle in the parking lot of a public or private
144 | employer may be conducted; prohibiting a public or private
145 | employer from conditioning employment upon specified
146 | licensure status or upon a specified agreement;
147 | prohibiting a public or private employer from attempting
148 | to prevent or prohibiting any customer, employee, or
149 | invitee from entering the parking lot of the employer's
150 | place of business because the customer's, employee's, or
151 | invitee's private motor vehicle contains a legal firearm;
152 | prohibiting public or private employers from terminating
153 | the employment of or otherwise discriminating against an
154 | employee, or expelling a customer or invitee, for
155 | exercising his or her constitutional right to keep and
156 | bear arms or for exercising the right of self-defense;
157 | providing a condition to the prohibition; providing that
158 | such prohibitions apply to all public-sector employers;