

By the Committee on Judiciary; and Senators Peaden and Baker

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1 A bill to be entitled

2 An act relating to the "Preservation and Protection of the
3 Right to Keep and Bear Arms in Motor Vehicles Act of
4 2008"; creating s. 790.251, F.S.; creating the
5 "Preservation and Protection of the Right to Keep and Bear
6 Arms in Motor Vehicles Act of 2008"; providing legislative
7 findings and intent; prohibiting a public or private
8 entity from prohibiting a customer, employee, or invitee
9 from possessing any legally owned firearm that is lawfully
10 possessed and locked inside or locked to a private motor
11 vehicle in a parking lot; prohibiting a public or private
12 entity from violating the privacy rights of a customer,
13 employee, or invitee by verbal or written inquiry
14 regarding the presence of a firearm inside a private motor
15 vehicle in a parking lot or by the search of a private
16 motor vehicle in a parking lot to ascertain the presence
17 of a firearm within the vehicle; prohibiting actions by a
18 public or private entity against a customer, employee, or
19 invitee based upon verbal or written statements concerning
20 possession of a firearm stored inside a private motor
21 vehicle in a parking lot for lawful purposes; providing
22 conditions under which a search of a private motor vehicle
23 in the parking lot of a public or private entity may be
24 conducted; prohibiting an employer from conditioning
25 employment upon an agreement by a prospective employee
26 that prohibits employees from keeping a legal firearm
27 locked inside a motor vehicle; prohibiting an employer
28 from attempting to prevent or prohibiting any customer,
29 employee, or invitee from entering the parking lot of the

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30 employer's place of business when the customer's,
31 employee's, or invitee's motor vehicle contains a legal
32 firearm; prohibiting employers from terminating the
33 employment of or otherwise discriminating against an
34 employee, or expelling a customer or invitee, for
35 exercising his or her constitutional right to keep and
36 bear arms or for exercising the right of self-defense;
37 providing a condition to the prohibition; providing that
38 such prohibitions apply to all public-sector employers;
39 delineating duties not owed by public and private entities
40 and employers with respect to the provisions of the act;
41 providing specified immunity from liability for public and
42 private entities and employers; providing nonapplicability
43 of such immunity; providing for enforcement of the act;
44 providing for the award of costs and attorney's fees;
45 providing definitions; providing exceptions to the
46 prohibitions under the act; providing applicability;
47 providing an effective date.

48
49 Be It Enacted by the Legislature of the State of Florida:

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

53 790.251 Protection of the right to keep and bear arms in
54 motor vehicles for self-defense and other lawful purposes;
55 prohibited acts; duty of public and private entities and
56 employers; immunity from liability; enforcement.--

57 (1) LEGISLATIVE INTENT; FINDINGS.--This act is intended to
58 codify the long-standing legislative policy of the state that

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59 individual citizens have a constitutional right to keep and bear
60 arms, that they have a constitutional right to possess and keep
61 legally owned firearms within their motor vehicles for self-
62 defense and other lawful purposes, and that these rights are not
63 abrogated by virtue of a citizen becoming a customer, employee,
64 or invitee of a business entity. It is the finding of the
65 Legislature that a citizen's lawful possession, transportation,
66 and secure keeping of firearms and ammunition within his or her
67 motor vehicle is essential to the exercise of the fundamental
68 constitutional right to keep and bear arms and the constitutional
69 right of self-defense. The Legislature finds that protecting and
70 preserving these rights is essential to the exercise of freedom
71 and individual responsibility. The Legislature further finds that
72 no citizen can or should be required to waive or abrogate his or
73 her right to possess and securely keep firearms and ammunition
74 locked within his or her motor vehicle by virtue of becoming a
75 customer, employee, or invitee of any employer or business
76 establishment within the state.

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

80 (a) No public or private entity may prohibit any customer,
81 employee, or invitee from possessing any legally owned firearm
82 when such firearm is lawfully possessed and locked inside or
83 locked to a private motor vehicle in a parking lot and when the
84 customer, employee, or invitee is lawfully in such area.

85 (b) No public or private entity may violate the privacy
86 rights of a customer, employee, or invitee by verbal or written
87 inquiry regarding the presence of a firearm inside a private

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88 motor vehicle in a parking lot or by an actual search of a
89 private motor vehicle in a parking lot to ascertain the presence
90 of a firearm within the vehicle. Further, no public or private
91 entity may take any action against a customer, employee, or
92 invitee based upon verbal or written statements of any party
93 concerning possession of a firearm stored inside a private motor
94 vehicle in a parking lot for lawful purposes. A search of a
95 private motor vehicle in the parking lot of a public or private
96 entity to ascertain the presence of a firearm within the vehicle
97 may only be conducted by on-duty law enforcement personnel based
98 upon due process and must comply with constitutional protections.

99 (c) No employer shall condition employment upon any
100 agreement by a prospective employee that prohibits an employee
101 from keeping a legal firearm locked inside a motor vehicle when
102 such firearm is kept for lawful purposes.

103 (d) No employer shall prohibit or attempt to prevent any
104 customer, employee, or invitee from entering the parking lot of
105 the employer's place of business when the customer's, employee's,
106 or invitee's motor vehicle contains a legal firearm, being
107 carried for lawful purposes, that is out of sight within the
108 customer's, employee's, or invitee's motor vehicle.

109 (e) No employer may terminate the employment of or
110 otherwise discriminate against an employee, or expel a customer
111 or invitee, for exercising his or her constitutional right to
112 keep and bear arms or for exercising the right of self-defense as
113 long as a firearm is never exhibited on company property for any
114 reason other than lawful defensive purposes.

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116 This subsection applies to all public-sector employers, including
117 those already prohibited from regulating firearms under the
118 provisions of s. 790.33.

119 (3) DUTY OF PUBLIC AND PRIVATE ENTITIES AND EMPLOYERS;
120 IMMUNITY FROM LIABILITY.--

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

124 1. Prohibit any customer, employee, or invitee from
125 possessing a legal firearm in a locked motor vehicle in the
126 entity's or employer's parking lot;

127 2. Search a motor vehicle in the entity's or employer's
128 parking lot or inquire regarding the presence of a firearm in a
129 locked motor vehicle in the entity's or employer's parking lot;

130 3. Condition employment upon an agreement regarding the
131 employee's possession of a legal firearm within a locked motor
132 vehicle in the entity's or employer's parking lot; or

133 4. Terminate the employment of an employee for exercising
134 his or her right to bear arms or for exercising the right of
135 self-defense, as long as a firearm is never exhibited on company
136 property for any reason other than lawful defensive purposes.

137 (b) Except for public or private entities and employers
138 subject to the exceptions of subsection (6), a public or private
139 entity or employer is not liable in a civil action based on
140 actions or inactions taken in compliance with this section. The
141 immunity provided in this subsection does not apply to civil
142 actions based on actions or inactions by public or private
143 entities or employers which are unrelated to compliance with this

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144 section. This section does not create a new duty on the part of
145 the employer, property owner, or property owner's agent.

146 (4) ENFORCEMENT.--The Attorney General shall enforce the
147 protections of this act on behalf of any customer, employee, or
148 invitee aggrieved under this act. If there is reasonable cause to
149 believe that the aggrieved person's rights under this act have
150 been violated by a public or private entity, the Attorney General
151 shall commence a civil or administrative action for damages,
152 injunctive relief and civil penalties, and such other relief as
153 may be appropriate under the provisions of s. 760.51, or may
154 negotiate a settlement with any employer on behalf of any person
155 aggrieved under the act. However, nothing in this act shall
156 prohibit the right of a person aggrieved under this act to bring
157 a civil action for violation of rights protected under the act.
158 In any successful action brought by a customer, employee, or
159 invitee aggrieved under this act, the court shall award all court
160 costs, attorney's fees, and reasonable personal costs and losses
161 suffered by the aggrieved person as a result of the violation of
162 rights under this act.

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

164 (a) "Parking lot" means any property that is used for
165 parking motor vehicles and is available to customers, employees,
166 or invitees for temporary or long-term parking or storage of
167 motor vehicles.

168 (b) "Motor vehicle" means any automobile, truck, minivan,
169 sports utility vehicle, motor home, recreational vehicle,
170 motorcycle, motor scooter, or any other vehicle operated on the
171 roads of this state and required to be registered under state
172 law.

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

174 1. Works for salary, wages, or other remuneration;

175 2. Is an independent contractor; or

176 3. Is a volunteer, intern, or other similar individual for
177 an employer.

178 (d) "Employer" means any business that is a sole
179 proprietorship, partnership, corporation, limited liability
180 company, professional association, cooperative, joint venture,
181 trust, firm, institution, or association, or public-sector
182 entity, that has employees.

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

186
187 As used in this section, the term "firearm" includes ammunition
188 and accouterments attendant to the lawful possession and use of a
189 firearm.

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

192 (a) Any school property as defined and regulated under s.
193 790.115.

194 (b) Any correctional institution regulated under s. 944.47
195 or chapter 957.

196 (c) Property owned or leased by an employer or the landlord
197 of an employer upon which are conducted substantial activities
198 involving national defense, aerospace, or domestic security.

199 (d) Property owned or leased by an employer or the landlord
200 of an employer upon which the primary business conducted is the

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201 manufacture, use, storage, or transportation of combustible or
202 explosive materials regulated under state or federal law.

203 (e) A motor vehicle owned, leased, or rented by an employer
204 or the landlord of an employer.

205 (f) Any other property owned or leased by an employer or
206 the landlord of an employer upon which possession of a firearm or
207 other legal product by a customer, employee, or invitee is
208 prohibited pursuant to any federal law or any general law of this
209 state on the effective date of this act.

210 (7) SHORT TITLE.--This section may be cited as the
211 "Preservation and Protection of the Right to Keep and Bear Arms
212 in Motor Vehicles Act of 2008."

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