

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Mayfield offered the following:

2
3 **Substitute Amendment for Amendment (616087) (with title**
4 **amendment)**

5 Remove everything after the enacting clause and insert:

6 Section 1. Section 790.251, Florida Statutes, is created
7 to 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) LEGISLATIVE INTENT; FINDINGS.--This act is intended to
13 codify the long-standing legislative policy of the state that
14 individual citizens have a constitutional right to keep and bear
15 arms, that they have a constitutional right to possess and keep
16 legally owned firearms within their motor vehicles for self-

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17 defense and other lawful purposes, and that these rights are not
18 abrogated by virtue of a citizen becoming a customer, employee,
19 or invitee of a business entity. It is the finding of the
20 Legislature that a citizen's lawful possession, transportation,
21 and secure keeping of firearms and ammunition within his or her
22 motor vehicle is essential to the exercise of the fundamental
23 constitutional right to keep and bear arms and the
24 constitutional right of self-defense. The Legislature finds that
25 protecting and preserving these rights is essential to the
26 exercise of freedom and individual responsibility. The
27 Legislature further finds that no citizen can or should be
28 required to waive or abrogate his or her right to possess and
29 securely keep firearms and ammunition locked within his or her
30 motor vehicle by virtue of becoming a customer, employee, or
31 invitee of any employer or business establishment within the
32 state, unless specifically required by state or federal law.

33 (2) PROHIBITED ACTS.--No public or private employer may
34 violate the constitutional rights of any customer, employee, or
35 invitee as provided in paragraphs (a)-(e):

36 (a) No public or private employer may prohibit any
37 customer, employee, or invitee from possessing any legally owned
38 firearm when such firearm is lawfully possessed and locked
39 inside or locked to a private motor vehicle in a parking lot and
40 when the customer, employee, or invitee is lawfully in such
41 area.

42 (b) No public or private employer may violate the privacy
43 rights of a customer, employee, or invitee by verbal or written
44 inquiry regarding the presence of a firearm inside or locked to

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45 a private motor vehicle in a parking lot or by an actual search
46 of a private motor vehicle in a parking lot to ascertain the
47 presence of a firearm within the vehicle. Further, no public or
48 private employer may take any action against a customer,
49 employee, or invitee based upon verbal or written statements of
50 any party concerning possession of a firearm stored inside a
51 private motor vehicle in a parking lot for lawful purposes. A
52 search of a private motor vehicle in the parking lot of a public
53 or private employer to ascertain the presence of a firearm
54 within the vehicle may only be conducted by on-duty law
55 enforcement personnel, based upon due process and must comply
56 with constitutional protections.

57 (c) No public or private employer shall condition
58 employment upon either:

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

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

65 (d) No public or private employer shall prohibit or
66 attempt to prevent any customer, employee, or invitee from
67 entering the parking lot of the employer's place of business
68 because the customer's, employee's, or invitee's private motor
69 vehicle contains a legal firearm being carried for lawful
70 purposes, that is out of sight within the customer's,
71 employee's, or invitee's private motor vehicle.

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72 (e) No public or private employer may terminate the
73 employment of or otherwise discriminate against an employee, or
74 expel a customer or invitee for exercising his or her
75 constitutional right to keep and bear arms or for exercising the
76 right of self-defense as long as a firearm is never exhibited on
77 company property for any reason other than lawful defensive
78 purposes.

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

83 (3) DUTY OF CARE OF PUBLIC AND PRIVATE EMPLOYERS; IMMUNITY
84 FROM LIABILITY.--

85 (a) When subject to the provisions of subsection (2), a
86 public or private employer has no duty of care related to the
87 actions prohibited under such subsection.

88 (b) A public or private employer is not liable in a civil
89 action based on actions or inactions taken in compliance with
90 this section. The immunity provided in this subsection does not
91 apply to civil actions based on actions or inactions of public
92 or private employers that are unrelated to compliance with this
93 section.

94 (c) Nothing contained in this section shall be interpreted
95 to expand any existing duty, or create any additional duty, on
96 the part of a public or private employer, property owner, or
97 property owner's agent.

98 (4) ENFORCEMENT.--The Attorney General shall enforce the
99 protections of this act on behalf of any customer, employee, or

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100 invitee aggrieved under this act. If there is reasonable cause
101 to believe that the aggrieved person's rights under this act
102 have been violated by a public or private employer, the Attorney
103 General shall commence a civil or administrative action for
104 damages, injunctive relief and civil penalties, and such other
105 relief as may be appropriate under the provisions of s. 760.51,
106 or may negotiate a settlement with any employer on behalf of any
107 person aggrieved under the act. However, nothing in this act
108 shall prohibit the right of a person aggrieved under this act to
109 bring a civil action for violation of rights protected under the
110 act. In any successful action brought by a customer, employee,
111 or invitee aggrieved under this act, the court shall award all
112 reasonable personal costs and losses suffered by the aggrieved
113 person as a result of the violation of rights under this act. In
114 any action brought pursuant to this act, the court shall award
115 all court costs and attorney's fees to the prevailing party.

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

117 (a) "Parking lot" means any property that is used for
118 parking motor vehicles and is available to customers, employees,
119 or invitees for temporary or long-term parking or storage of
120 motor vehicles.

121 (b) "Motor vehicle" means any automobile, truck, minivan,
122 sports utility vehicle, motor home, recreational vehicle,
123 motorcycle, motor scooter, or any other vehicle operated on the
124 roads of this state and required to be registered under state
125 law.

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

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- 128 1. Works for salary, wages, or other remuneration;
129 2. Is an independent contractor; or
130 3. Is a volunteer, intern, or other similar individual for
131 an employer.

132 (d) "Employer" means any business that is a sole
133 proprietorship, partnership, corporation, limited liability
134 company, professional association, cooperative, joint venture,
135 trust, firm, institution, or association, or public-sector
136 entity, that has employees.

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

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141 As used in this section, the term "firearm" includes ammunition
142 and accoutrements attendant to the lawful possession and use of
143 a firearm.

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

146 (a) Any school property as defined and regulated under s.
147 790.115.

148 (b) Any correctional institution regulated under s. 944.47
149 or chapter 957.

150 (c) Any property where a nuclear-powered electricity
151 generation facility is located.

152 (d) Property owned or leased by a public or private
153 employer or the landlord of a public or private employer upon
154 which are conducted substantial activities involving national
155 defense, aerospace, or homeland security.

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156 (e) Property owned or leased by a public or private
157 employer or the landlord of a public or private employer upon
158 which the primary business conducted is the manufacture, use,
159 storage, or transportation of combustible or explosive materials
160 regulated under state or federal law, or property owned or
161 leased by an employer who has obtained a permit required under
162 18 U.S.C. s. 842 to engage in the business of importing,
163 manufacturing, or dealing in explosive materials on such
164 property.

165 (f) A motor vehicle owned, leased, or rented by a public
166 or private employer or the landlord of a public or private
167 employer.

168 (g) Any other property owned or leased by a public or
169 private employer or the landlord of a public or private employer
170 upon which possession of a firearm or other legal product by a
171 customer, employee, or invitee is prohibited pursuant to any
172 federal law, contract with a federal government entity, or
173 general law of this state.

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

177 Section 2. This act shall take effect July 1, 2008, and
178 shall apply to causes of action accruing on or after that date.

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

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184 Remove the entire title and insert:
185 A bill to be entitled
186 An act relating to the "Preservation and Protection of the
187 Right to Keep and Bear Arms in Motor Vehicles Act of
188 2008"; creating s. 790.251, F.S.; creating the
189 "Preservation and Protection of the Right to Keep and Bear
190 Arms in Motor Vehicles Act of 2008"; providing legislative
191 findings and intent; prohibiting a public or private
192 employer from prohibiting a customer, employee, or invitee
193 from possessing any legally owned firearm that is lawfully
194 possessed and locked inside or locked to a private motor
195 vehicle in a parking lot; prohibiting a public or private
196 employer from violating the privacy rights of a customer,
197 employee, or invitee by verbal or written inquiry
198 regarding the presence of a firearm inside or locked to a
199 private motor vehicle in a parking lot or by the search of
200 a private motor vehicle in a parking lot to ascertain the
201 presence of a firearm within the vehicle; prohibiting
202 actions by a public or private employer against a
203 customer, employee, or invitee based upon verbal or
204 written statements concerning possession of a firearm
205 stored inside a private motor vehicle in a parking lot for
206 lawful purposes; providing conditions under which a search
207 of a private motor vehicle in the parking lot of a public
208 or private employer may be conducted; prohibiting a public
209 or private employer from conditioning employment upon
210 specified licensure status or upon a specified agreement;
211 prohibiting a public or private employer from attempting

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212 to prevent or prohibiting any customer, employee, or
213 invitee from entering the parking lot of the employer's
214 place of business because the customer's, employee's, or
215 invitee's private motor vehicle contains a legal firearm;
216 prohibiting public or private employers from terminating
217 the employment of or otherwise discriminating against an
218 employee, or expelling a customer or invitee, for
219 exercising his or her constitutional right to keep and
220 bear arms or for exercising the right of self-defense;
221 providing a condition to the prohibition; providing that
222 such prohibitions apply to all public-sector employers;
223 providing that, when subject to the prohibitions imposed
224 by the act, a public or private employer has no duty of
225 care related to the actions prohibited thereunder;
226 providing specified immunity from liability for public and
227 private employers; providing nonapplicability of such
228 immunity; providing construction; providing for
229 enforcement of the act; providing for the award of
230 reasonable personal costs and losses; providing for the
231 award of court costs and attorney's fees; providing
232 definitions; providing exceptions to the prohibitions
233 under the act; providing a short title; providing
234 applicability; providing an effective date.