

Amendment No.

CHAMBER ACTION

Senate

House

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1 Representative Mayfield offered the following:

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3 **Amendment (with title amendment)**

4 Remove everything after the enacting clause and insert:

5
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) 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:

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

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

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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-
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
55 constitutional right of self-defense. The Legislature finds that
56 protecting and preserving these rights is essential to the
57 exercise of freedom and individual responsibility. The
58 Legislature further finds that no citizen can or should be
59 required to waive or abrogate his or her right to possess and
60 securely keep firearms and ammunition locked within his or her
61 motor vehicle by virtue of becoming a customer, employee, or
62 invitee of any employer or business establishment within the
63 state, unless specifically required by 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
70 inside or locked to a private motor vehicle in a parking lot and

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71 when the customer, employee, or invitee is lawfully in such
72 area.

73 (b) No public or private employer may violate the privacy
74 rights of a customer, employee, or invitee by verbal or written
75 inquiry regarding the presence of a firearm inside or locked to
76 a private motor vehicle in a parking lot or by an actual search
77 of a private motor vehicle in a parking lot to ascertain the
78 presence of a firearm within the vehicle. Further, no public or
79 private employer may take any action against a customer,
80 employee, or invitee based upon verbal or written statements of
81 any party concerning possession of a firearm stored inside a
82 private motor vehicle in a parking lot for lawful purposes. A
83 search of a private motor vehicle in the parking lot of a public
84 or private employer to ascertain the presence of a firearm
85 within the vehicle may only be conducted by on-duty law
86 enforcement personnel, based upon due process and must comply
87 with constitutional protections.

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

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

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

96 (d) No public or private employer shall prohibit or
97 attempt to prevent any customer, employee, or invitee from
98 entering the parking lot of the employer's place of business

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99 because the customer's, employee's, or invitee's private motor
100 vehicle contains a legal firearm being carried for lawful
101 purposes, that is out of sight within the customer's,
102 employee's, or invitee's private motor vehicle.

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

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

114 (5) DUTY OF CARE OF PUBLIC AND PRIVATE EMPLOYERS; IMMUNITY
115 FROM LIABILITY.--

116 (a) When subject to the provisions of subsection (4), a
117 public or private employer has no duty of care related to the
118 actions prohibited under such subsection.

119 (b) A public or private employer is not liable in a civil
120 action based on actions or inactions taken in compliance with
121 this section. The immunity provided in this subsection does not
122 apply to civil actions based on actions or inactions of public
123 or private employers that are unrelated to compliance with this
124 section.

125 (c) Nothing contained in this section shall be interpreted
126 to expand any existing duty, or create any additional duty, on

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127 the part of a public or private employer, property owner, or
128 property owner's agent.

129 (6) ENFORCEMENT.--The Attorney General shall enforce the
130 protections of this act on behalf of any customer, employee, or
131 invitee aggrieved under this act. If there is reasonable cause
132 to believe that the aggrieved person's rights under this act
133 have been violated by a public or private employer, the Attorney
134 General shall commence a civil or administrative action for
135 damages, injunctive relief and civil penalties, and such other
136 relief as may be appropriate under the provisions of s. 760.51,
137 or may negotiate a settlement with any employer on behalf of any
138 person aggrieved under the act. However, nothing in this act
139 shall prohibit the right of a person aggrieved under this act to
140 bring a civil action for violation of rights protected under the
141 act. In any successful action brought by a customer, employee,
142 or invitee aggrieved under this act, the court shall award all
143 reasonable personal costs and losses suffered by the aggrieved
144 person as a result of the violation of rights under this act. In
145 any action brought pursuant to this act, the court shall award
146 all court costs and attorney's fees to the prevailing party.

147 (7) EXCEPTIONS.--The prohibitions in subsection (4) do not
148 apply to:

149 (a) Any school property as defined and regulated under s.
150 790.115.

151 (b) Any correctional institution regulated under s. 944.47
152 or chapter 957.

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

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

159 (e) Property owned or leased by a public or private
160 employer or the landlord of a public or private employer upon
161 which the primary business conducted is the manufacture, use,
162 storage, or transportation of combustible or explosive materials
163 regulated under state or federal law, or property owned or
164 leased by an employer who has obtained a permit required under
165 18 U.S.C. s. 842 to engage in the business of importing,
166 manufacturing, or dealing in explosive materials on such
167 property.

168 (f) A motor vehicle owned, leased, or rented by a public
169 or private employer or the landlord of a public or private
170 employer.

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

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

182 Remove the entire title and insert:

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A bill to be entitled

An act relating to the "Preservation and Protection of the Right to Keep and Bear Arms in Motor Vehicles Act of 2008"; creating s. 790.251, F.S.; creating the "Preservation and Protection of the Right to Keep and Bear Arms in Motor Vehicles Act of 2008"; providing definitions; providing legislative findings and intent; prohibiting a public or private employer from prohibiting a customer, employee, or invitee from possessing any legally owned firearm that is lawfully possessed and locked inside or locked to a private motor vehicle in a parking lot; prohibiting a public or private employer from violating the privacy rights of a customer, employee, or invitee by verbal or written inquiry regarding the presence of a firearm inside or locked to a private motor vehicle in a parking lot or by the search of a private motor vehicle in a parking lot to ascertain the presence of a firearm within the vehicle; prohibiting actions by a public or private employer against a customer, employee, or invitee based upon verbal or written statements concerning possession of a firearm stored inside a private motor vehicle in a parking lot for lawful purposes; providing conditions under which a search of a private motor vehicle in the parking lot of a public or private employer may be conducted; prohibiting a public or private employer from conditioning employment upon specified licensure status or upon a specified agreement;

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211 prohibiting a public or private employer from attempting
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 exceptions to the prohibitions under the act; providing
233 applicability; providing an effective date.