

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
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.

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

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

54 790.251 Protection of the right to keep and bear arms in
55 motor vehicles for self-defense and other lawful purposes;

56 prohibited acts; duty of public and private entities and
57 employers; immunity from liability; enforcement.--

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

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

82 (a) No public or private entity may prohibit any customer,
83 employee, or invitee from possessing any legally owned firearm

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84 when such firearm is lawfully possessed and locked inside or
85 locked to a private motor vehicle in a parking lot and when the
86 customer, employee, or invitee is lawfully in such area.

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

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

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

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

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

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

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

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

130 2. Search a motor vehicle in the entity's or employer's
 131 parking lot or inquire regarding the presence of a firearm in a
 132 locked motor vehicle in the entity's or employer's parking lot;

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

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

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

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

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

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

168 or invitees for temporary or long-term parking or storage of
 169 motor vehicles.

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

175 (c) "Employee" means any person who:
 176 1. Works for salary, wages, or other remuneration;
 177 2. Is an independent contractor; or
 178 3. Is a volunteer, intern, or other similar individual for
 179 an employer.

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

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

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

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

194 (a) Any school property as defined and regulated under s.
 195 790.115.

196 (b) Any state correctional institution regulated under s.
197 944.47.

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

202 (d) Property owned or leased by an employer or the
203 landlord of an employer upon which the primary business
204 conducted is the manufacture, use, storage, or transportation of
205 combustible or explosive materials regulated under state or
206 federal law.

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

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

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

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