

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 specified licensure status or upon a
26 specified agreement; prohibiting an employer from
27 attempting to prevent or prohibiting any customer,
28 employee, or invitee from entering the parking lot of the

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

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

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

52 790.251 Protection of the right to keep and bear arms in
53 motor vehicles for self-defense and other lawful purposes;
54 prohibited acts; duty of public and private entities and
55 employers; immunity from liability; enforcement.--

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

100 (c) No employer shall condition employment upon either:
 101 1. The fact that an employee or prospective employee holds
 102 or does not hold a license issued pursuant to s. 790.06; or
 103 2. Any agreement by an employee or a prospective employee
 104 that prohibits an employee from keeping a legal firearm locked
 105 inside a motor vehicle when such firearm is kept for lawful
 106 purposes.

107 (d) No employer shall prohibit or attempt to prevent any
 108 customer, employee, or invitee from entering the parking lot of
 109 the employer's place of business because the customer's,
 110 employee's, or invitee's motor vehicle contains a legal firearm,

111 being carried for lawful purposes, that is out of sight within
 112 the customer's, employee's, or invitee's motor vehicle.

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

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

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

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

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

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

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

137 4. Terminate the employment of an employee for exercising
 138 his or her right to bear arms or for exercising the right of

139 self-defense, as long as a firearm is never exhibited on company
 140 property for any reason other than lawful defensive purposes.

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

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

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

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

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

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

- 178 1. Works for salary, wages, or other remuneration;
- 179 2. Is an independent contractor; or
- 180 3. Is a volunteer, intern, or other similar individual for
 181 an employer.

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

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

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

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

196 (a) Any school property as defined and regulated under s.
 197 790.115.

198 (b) Any state correctional institution regulated under s.
 199 944.47.

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

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

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

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

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

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