

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
7 definitions; providing legislative findings and intent;
8 prohibiting a public or private employer from prohibiting
9 a customer, employee, or invitee from possessing any
10 legally owned firearm that is lawfully possessed and
11 locked inside or locked to a private motor vehicle in a
12 parking lot; prohibiting a public or private employer from
13 violating the privacy rights of a customer, employee, or
14 invitee by verbal or written inquiry regarding the
15 presence of a firearm inside or locked to a private motor
16 vehicle in a parking lot or by the search of a private
17 motor vehicle in a parking lot to ascertain the presence
18 of a firearm within the vehicle; prohibiting actions by a
19 public or private employer against a customer, employee,
20 or invitee based upon verbal or written statements
21 concerning possession of a firearm stored inside a private
22 motor vehicle in a parking lot for lawful purposes;
23 providing conditions under which a search of a private
24 motor vehicle in the parking lot of a public or private
25 employer may be conducted; prohibiting a public or private
26 employer from conditioning employment upon specified
27 licensure status or upon a specified agreement;
28 prohibiting a public or private employer from attempting

29 | to prevent or prohibiting any customer, employee, or
30 | invitee from entering the parking lot of the employer's
31 | place of business because the customer's, employee's, or
32 | invitee's private motor vehicle contains a legal firearm;
33 | prohibiting public or private employers from terminating
34 | the employment of or otherwise discriminating against an
35 | employee, or expelling a customer or invitee, for
36 | exercising his or her constitutional right to keep and
37 | bear arms or for exercising the right of self-defense;
38 | providing a condition to the prohibition; providing that
39 | such prohibitions apply to all public-sector employers;
40 | providing that, when subject to the prohibitions imposed
41 | by the act, a public or private employer has no duty of
42 | care related to the actions prohibited thereunder;
43 | providing specified immunity from liability for public and
44 | private employers; providing nonapplicability of such
45 | immunity; providing construction; providing for
46 | enforcement of the act; providing for the award of
47 | reasonable personal costs and losses; providing for the
48 | award of court costs and attorney's fees; providing
49 | exceptions to the prohibitions under the act; providing
50 | applicability; providing an effective date.

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52 | Be It Enacted by the Legislature of the State of Florida:

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54 | Section 1. Section 790.251, Florida Statutes, is created
55 | to read:

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

60 (1) SHORT TITLE.--This section may be cited as the
 61 "Preservation and Protection of the Right to Keep and Bear Arms
 62 in Motor Vehicles Act of 2008."

63 (2) DEFINITIONS.--As used in this section, the term:

64 (a) "Parking lot" means any property that is used for
 65 parking motor vehicles and is available to customers, employees,
 66 or invitees for temporary or long-term parking or storage of
 67 motor vehicles.

68 (b) "Motor vehicle" means any automobile, truck, minivan,
 69 sports utility vehicle, motor home, recreational vehicle,
 70 motorcycle, motor scooter, or any other vehicle operated on the
 71 roads of this state and required to be registered under state
 72 law.

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

- 75 1. Works for salary, wages, or other remuneration;
- 76 2. Is an independent contractor; or
- 77 3. Is a volunteer, intern, or other similar individual for
 78 an employer.

79 (d) "Employer" means any business that is a sole
 80 proprietorship, partnership, corporation, limited liability
 81 company, professional association, cooperative, joint venture,
 82 trust, firm, institution, or association, or public-sector
 83 entity, that has employees.

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

87
88 As used in this section, the term "firearm" includes ammunition
89 and accoutrements attendant to the lawful possession and use of
90 a firearm.

91 (3) LEGISLATIVE INTENT; FINDINGS.--This act is intended to
92 codify the long-standing legislative policy of the state that
93 individual citizens have a constitutional right to keep and bear
94 arms, that they have a constitutional right to possess and keep
95 legally owned firearms within their motor vehicles for self-
96 defense and other lawful purposes, and that these rights are not
97 abrogated by virtue of a citizen becoming a customer, employee,
98 or invitee of a business entity. It is the finding of the
99 Legislature that a citizen's lawful possession, transportation,
100 and secure keeping of firearms and ammunition within his or her
101 motor vehicle is essential to the exercise of the fundamental
102 constitutional right to keep and bear arms and the
103 constitutional right of self-defense. The Legislature finds that
104 protecting and preserving these rights is essential to the
105 exercise of freedom and individual responsibility. The
106 Legislature further finds that no citizen can or should be
107 required to waive or abrogate his or her right to possess and
108 securely keep firearms and ammunition locked within his or her
109 motor vehicle by virtue of becoming a customer, employee, or
110 invitee of any employer or business establishment within the
111 state, unless specifically required by state or federal law.

112 (4) PROHIBITED ACTS.--No public or private employer may
113 violate the constitutional rights of any customer, employee, or
114 invitee as provided in paragraphs (a)-(e):

115 (a) No public or private employer may prohibit any
116 customer, employee, or invitee from possessing any legally owned
117 firearm when such firearm is lawfully possessed and locked
118 inside or locked to a private motor vehicle in a parking lot and
119 when the customer, employee, or invitee is lawfully in such
120 area.

121 (b) No public or private employer may violate the privacy
122 rights of a customer, employee, or invitee by verbal or written
123 inquiry regarding the presence of a firearm inside or locked to
124 a private motor vehicle in a parking lot or by an actual search
125 of a private motor vehicle in a parking lot to ascertain the
126 presence of a firearm within the vehicle. Further, no public or
127 private employer may take any action against a customer,
128 employee, or invitee based upon verbal or written statements of
129 any party concerning possession of a firearm stored inside a
130 private motor vehicle in a parking lot for lawful purposes. A
131 search of a private motor vehicle in the parking lot of a public
132 or private employer to ascertain the presence of a firearm
133 within the vehicle may only be conducted by on-duty law
134 enforcement personnel, based upon due process and must comply
135 with constitutional protections.

136 (c) No public or private employer shall condition
137 employment upon either:

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

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

144 (d) No public or private employer shall prohibit or
145 attempt to prevent any customer, employee, or invitee from
146 entering the parking lot of the employer's place of business
147 because the customer's, employee's, or invitee's private motor
148 vehicle contains a legal firearm being carried for lawful
149 purposes, that is out of sight within the customer's,
150 employee's, or invitee's private motor vehicle.

151 (e) No public or private employer may terminate the
152 employment of or otherwise discriminate against an employee, or
153 expel a customer or invitee for exercising his or her
154 constitutional right to keep and bear arms or for exercising the
155 right of self-defense as long as a firearm is never exhibited on
156 company property for any reason other than lawful defensive
157 purposes.

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

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

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

167 (b) A public or private employer is not liable in a civil
 168 action based on actions or inactions taken in compliance with
 169 this section. The immunity provided in this subsection does not
 170 apply to civil actions based on actions or inactions of public
 171 or private employers that are unrelated to compliance with this
 172 section.

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

177 (6) ENFORCEMENT.--The Attorney General shall enforce the
 178 protections of this act on behalf of any customer, employee, or
 179 invitee aggrieved under this act. If there is reasonable cause
 180 to believe that the aggrieved person's rights under this act
 181 have been violated by a public or private employer, the Attorney
 182 General shall commence a civil or administrative action for
 183 damages, injunctive relief and civil penalties, and such other
 184 relief as may be appropriate under the provisions of s. 760.51,
 185 or may negotiate a settlement with any employer on behalf of any
 186 person aggrieved under the act. However, nothing in this act
 187 shall prohibit the right of a person aggrieved under this act to
 188 bring a civil action for violation of rights protected under the
 189 act. In any successful action brought by a customer, employee,
 190 or invitee aggrieved under this act, the court shall award all
 191 reasonable personal costs and losses suffered by the aggrieved
 192 person as a result of the violation of rights under this act. In
 193 any action brought pursuant to this act, the court shall award
 194 all court costs and attorney's fees to the prevailing party.

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

197 (a) Any school property as defined and regulated under s.
 198 790.115.

199 (b) Any correctional institution regulated under s. 944.47
 200 or chapter 957.

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

203 (d) Property owned or leased by a public or private
 204 employer or the landlord of a public or private employer upon
 205 which are conducted substantial activities involving national
 206 defense, aerospace, or homeland security.

207 (e) Property owned or leased by a public or private
 208 employer or the landlord of a public or private employer upon
 209 which the primary business conducted is the manufacture, use,
 210 storage, or transportation of combustible or explosive materials
 211 regulated under state or federal law, or property owned or
 212 leased by an employer who has obtained a permit required under
 213 18 U.S.C. s. 842 to engage in the business of importing,
 214 manufacturing, or dealing in explosive materials on such
 215 property.

216 (f) A motor vehicle owned, leased, or rented by a public
 217 or private employer or the landlord of a public or private
 218 employer.

219 (g) Any other property owned or leased by a public or
 220 private employer or the landlord of a public or private employer
 221 upon which possession of a firearm or other legal product by a
 222 customer, employee, or invitee is prohibited pursuant to any

223 | federal law, contract with a federal government entity, or
224 | general law of this state.

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

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