

By Senator Steube

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1 A bill to be entitled
 2 An act relating to firearms; creating s. 768.38, F.S.;
 3 providing legislative intent; requiring a business,
 4 organization, or entity that prohibits a concealed
 5 weapon or firearm licensee from carrying a weapon or
 6 firearm onto its property to assume certain
 7 responsibility for the safety and defense of such
 8 licensee; providing that the responsibility of such
 9 business, organization, or entity extends to the
 10 conduct of certain people and animals; providing a
 11 cause of action for a concealed weapon or firearm
 12 licensee who incurs injury, death, damage, or loss as
 13 the result of certain acts or attacks occurring on the
 14 property of such business, organization, or entity or
 15 on other specified properties; authorizing a licensee
 16 to recover attorney fees and specified costs;
 17 specifying a statute of limitations for bringing such
 18 action; requiring a business, organization, or entity
 19 with such prohibition to clearly display specified
 20 information; specifying requirements that a plaintiff
 21 must prove to prevail in a cause of action; providing
 22 an effective date.

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

26 Section 1. Section 768.38, Florida Statutes, is created to
 27 read:

28 768.38 Responsibility of property owner.—

29 (1) The Legislature intends to find a balance between the
 30 right of a concealed weapon or firearm licensee to carry a
 31 concealed weapon or firearm in order to exercise the right of
 32 self-defense and the right of a property owner or entity in

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33 charge of a property to exercise control over such property.

34 (2) A business, organization, or entity, including, but not
35 limited to, a private business or a not-for-profit entity, which
36 prohibits a concealed weapon or firearm licensee from carrying a
37 weapon or firearm onto the property of such business,
38 organization, or entity assumes absolute custodial
39 responsibility, when the licensee is prevented from carrying a
40 weapon or firearm due to the prohibition, for the safety and
41 defense of the licensee against any unlawful or reckless act by
42 another person, or any attack by a vicious or wild animal, on
43 the owner's property or on any property that the licensee is
44 required to traverse in order to travel to and from the location
45 where the licensee's weapon or firearm is stored.

46 (3) The responsibility of the business, organization, or
47 entity for the safety and defense of a licensee under this
48 section extends to the conduct of other members of the public;
49 trespassers; employees of the business, organization, or entity;
50 vicious animals; or wild animals.

51 (4) (a) A concealed weapon or firearm licensee who suffers
52 bodily injury or death, incurs economic loss or expense, or
53 incurs property damage or any other compensable loss as the
54 result of an unlawful or reckless act by another person, or an
55 attack by a vicious or wild animal, occurring on the property of
56 such business, organization, or entity, or on any property that
57 the licensee is required to traverse in order to travel to and
58 from the location where the licensee's weapon or firearm is
59 stored, while the licensee is prevented from carrying a weapon
60 or firearm due to a prohibition by the business, organization,
61 or entity has a cause of action against the business,

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62 organization, or entity. In addition to damages, the licensee is
63 entitled to reasonable attorney fees, court costs, expert
64 witness costs, and other costs necessary to bring the cause of
65 action.

66 (b) The statute of limitations for such an action is 2
67 years after the date of the occurrence giving rise to the
68 injury, death, damage, or loss.

69 (5) A business, organization, or entity that prohibits a
70 concealed weapon or firearm licensee from carrying a weapon or
71 firearm on its property must clearly display, along with any
72 image or language of prohibition, notice that the licensee is
73 under the custodial responsibility of the business,
74 organization, or entity.

75 (6) To prevail in an action brought under this section, the
76 plaintiff must show by a preponderance of the evidence all of
77 the following:

78 (a) The plaintiff had a license to carry a concealed weapon
79 or firearm under s. 790.06 at the time of the incident giving
80 rise to the action.

81 (b) The business, organization, or entity prohibited the
82 plaintiff from carrying a concealed weapon or firearm on the
83 property of the business, organization, or entity.

84 (c) The business, organization, or entity was not required
85 to prohibit the carrying of a concealed weapon or firearm on its
86 property pursuant to state or federal law.

87 (d) The plaintiff suffered bodily injury or death, incurred
88 economic loss or expense, or incurred property damage or any
89 other compensable loss as the result of an unlawful or reckless
90 act by another person, or an attack by a vicious or wild animal,

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91 occurring on the property of such business, organization, or
92 entity, or on any property that the licensee was required to
93 traverse in order to travel to and from the location where the
94 licensee's weapon or firearm was stored, while the licensee was
95 prevented from carrying a weapon or firearm due to the
96 prohibition by the business, organization, or entity.

97 (e) Such injury, death, loss, expense, or damage resulted
98 directly or indirectly from an unlawful or reckless act by
99 another person, or from an attack by a vicious or wild animal,
100 which could reasonably have been prevented but for the
101 prohibition by the business, organization, or entity.

102 Section 2. This act shall take effect July 1, 2017.