

## ENROLLED

CS/HB 503, Engrossed 1

2008 Legislature

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

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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.

51  
52 Be It Enacted by the Legislature of the State of Florida:

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

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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.

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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.

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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

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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.

158  
 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.

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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.

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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



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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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