

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.

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

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 51  
 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

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 either:  
103 1. an employee's or a prospective employee's holding or  
104 not holding a license issued pursuant to section 790.06, F.S., or  
105 2. any agreement by an employee or a prospective employee  
106 that prohibits an employee from keeping a legal firearm locked  
107 inside a motor vehicle when such firearm is kept for lawful  
108 purposes.

109 (d) No employer shall prohibit or attempt to prevent any  
110 customer, employee, or invitee from entering the parking lot of  
111 the employer's place of business because the customer's,

112 employee's, or invitee's motor vehicle contains a legal firearm,  
 113 being carried for lawful purposes, that is out of sight within  
 114 the customer's, employee's, or invitee's motor vehicle.

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

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

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

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

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

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

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

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

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

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

166 losses suffered by the aggrieved person as a result of the  
 167 violation of rights under this act.

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

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

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

178 (c) "Employee" means any person who possesses a valid  
 179 license issued pursuant to section 790.06, Florida Statutes,  
 180 and:

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

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

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

193

194 As used in this section, the term "firearm" includes ammunition  
 195 and accouterments attendant to the lawful possession and use of  
 196 a firearm.

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

199 (a) Any school property as defined and regulated under s.  
 200 790.115.

201 (b) Any state correctional institution regulated under s.  
 202 944.47.

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

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

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

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

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



PCS for HB 503

2008

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