

Preserving Right to Keep and Bear Arms in Motor Vehicles

This Act:

- prohibits a public or private employer from prohibiting a customer, employee, or invitee from possessing any legally owned firearm that is lawfully possessed and locked inside or locked to a private motor vehicle in a parking lot;
- prohibits a public or private employer from violating the privacy rights of a customer, employee, or invitee by verbal or written inquiry regarding the presence of a firearm inside or locked to a private motor vehicle in a parking lot or by the search of a private motor vehicle in a parking lot to ascertain the presence of a firearm within the vehicle;
- prohibits actions by a public or private employer against a customer, employee, or invitee based upon verbal or written statements concerning possession of a firearm stored inside a private motor vehicle in a parking lot for lawful purposes;
- provides conditions under which a search of a private motor vehicle in the parking lot of a public or private employer may be conducted;
- prohibits a public or private employer from conditioning employment upon specified licensure status or upon a specified agreement;
- prohibits a public or private employer from attempting to prevent or prohibiting any customer, employee, or invitee from entering the parking lot of the employer's place of business because the customer's, employee's, or invitee's private motor vehicle contains a legal firearm;
- prohibits public or private employers from terminating the employment of or otherwise discriminating against an employee, or expelling a customer or invitee, for exercising his or her constitutional right to keep and bear arms or for exercising the right of self defense;
- provides a condition to the prohibition;
- provides that such prohibitions apply to all public-sector employers;
- provides that, when subject to the prohibitions imposed by the Act, a public or private employer has no duty of care related to the actions prohibited thereunder;
- provides specified immunity from liability for public and private employers;
- provides nonapplicability of such immunity;
- provides for the award of reasonable personal costs and losses;
- provides for the award of court costs and attorney's fees;
- provides exceptions to the prohibitions under the Act; and
- provides applicability.

Submitted as:

Florida

Chapter 2008-7

Status: Enacted into law in 2008.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act to Preserve the Right to Keep
2 and Bear Arms in Motor Vehicles.”
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4 Section 2. [*Legislative Intent.*] This Act is intended to codify the long-standing legislative
5 policy of the state that individual citizens have a constitutional right to keep and bear arms, that
6 they have a constitutional right to possess and keep legally owned firearms within their motor
7 vehicles for self-defense and other lawful purposes, and that these rights are not abrogated by
8 virtue of a citizen becoming a customer, employee, or invitee of a business entity. It is the
9 finding of the [Legislature] that a citizen’s lawful possession, transportation, and secure keeping
10 of firearms and ammunition within his or her motor vehicle is essential to the exercise of the
11 fundamental constitutional right to keep and bear arms and the constitutional right of self-
12 defense. The [Legislature] finds that protecting and preserving these rights is essential to the
13 exercise of freedom and individual responsibility. The [Legislature] further finds that no citizen
14 can or should be required to waive or abrogate his or her right to possess and securely keep
15 firearms and ammunition locked within his or her motor vehicle by virtue of becoming a
16 customer, employee, or invitee of any employer or business establishment within the state, unless
17 specifically required by state or federal law.
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19 Section 3. [*Definitions.*] As used in this Act:

20 (1) “Employee” means any person who possesses a valid license issued pursuant to
21 [insert citation] and:

22 (a) Works for salary, wages, or other remuneration;

23 (b) Is an independent contractor; or

24 (c) Is a volunteer, intern, or other similar individual for an employer.

25 (2) “Employer” means any business that is a sole proprietorship, partnership, corporation,
26 limited liability company, professional association, cooperative, joint venture, trust, firm,
27 institution, or association, or public-sector entity, that has employees.

28 (3) “Firearm” includes ammunition and accoutrements attendant to the lawful possession
29 and use of a firearm.

30 (4) “Invitee” means any business invitee, including a customer or visitor, who is lawfully
31 on the premises of a public or private employer.

32 (5) “Motor vehicle” means any automobile, truck, minivan, sports utility vehicle, motor
33 home, recreational vehicle, motorcycle, motor scooter, or any other vehicle operated on the roads
34 of this state and required to be registered under state law.

35 (6) “Parking lot” means any property that is used for parking motor vehicles and is
36 available to customers, employees, or invitees for temporary or long-term parking or storage of
37 motor vehicles.
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39 Section 4. [*Prohibited Acts.*] No public or private employer may violate the constitutional
40 rights of any customer, employee, or invitee as provided in paragraphs (1) through (5) of this
41 section:

42 (1) No public or private employer may prohibit any customer, employee, or invitee from
43 possessing any legally owned firearm when such firearm is lawfully possessed and locked inside
44 or locked to a private motor vehicle in a parking lot and when the customer, employee, or invitee
45 is lawfully in such area.

46 (2) No public or private employer may violate the privacy rights of a customer,
47 employee, or invitee by verbal or written inquiry regarding the presence of a firearm inside or
48 locked to a private motor vehicle in a parking lot or by an actual search of a private motor

49 vehicle in a parking lot to ascertain the presence of a firearm within the vehicle. Further, no
50 public or private employer may take any action against a customer, employee, or invitee based
51 upon verbal or written statements of any party concerning possession of a firearm stored inside a
52 private motor vehicle in a parking lot for lawful purposes. A search of a private motor vehicle in
53 the parking lot of a public or private employer to ascertain the presence of a firearm within the
54 vehicle may only be conducted by on-duty law enforcement personnel, based upon due process
55 and must comply with constitutional protections.

56 (3) No public or private employer shall condition employment upon either:

57 (a) The fact that an employee or prospective employee holds or does not hold a
58 license issued pursuant to [insert citation]; or

59 (b) Any agreement by an employee or a prospective employee that prohibits an
60 employee from keeping a legal firearm locked inside or locked to a private motor vehicle in a
61 parking lot when such firearm is kept for lawful purposes.

62 (4) No public or private employer shall prohibit or attempt to prevent any customer,
63 employee, or invitee from entering the parking lot of the employer's place of business because
64 the customer's, employee's, or invitee's private motor vehicle contains a legal firearm being
65 carried for lawful purposes, that is out of sight within the customer's, employee's, or invitee's
66 private motor vehicle.

67 (5) No public or private employer may terminate the employment of or otherwise
68 discriminate against an employee, or expel a customer or invitee for exercising his or her
69 constitutional right to keep and bear arms or for exercising the right of self-defense as long as a
70 firearm is never exhibited on company property for any reason other than lawful defensive
71 purposes. This subsection applies to all public-sector employers, including those already
72 prohibited from regulating firearms under the provisions of [insert citation].

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74 Section 5. [*Duty of Care of Public and Private Employers; Immunity From Liability.*]

75 (A) When subject to the provisions of Section (4) of this Act, a public or private
76 employer has no duty of care related to the actions prohibited under such subsection.

77 (B) A public or private employer is not liable in a civil action based on actions or
78 inactions taken in compliance with this section. The immunity provided in this subsection does
79 not apply to civil actions based on actions or inactions of public or private employers that are
80 unrelated to compliance with this section.

81 (C) Nothing contained in this section shall be interpreted to expand any existing duty, or
82 create any additional duty, on the part of a public or private employer, property owner, or
83 property owner's agent.

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85 Section 6. [*Enforcement.*] The [Attorney General] shall enforce the protections of this Act
86 on behalf of any customer, employee, or invitee aggrieved under this Act. If there is reasonable
87 cause to believe that the aggrieved person's rights under this Act have been violated by a public
88 or private employer, the [Attorney General] shall commence a civil or administrative action for
89 damages, injunctive relief and civil penalties, and such other relief as may be appropriate under
90 the provisions of [insert citation], or may negotiate a settlement with any employer on behalf of
91 any person aggrieved under the Act. However, nothing in this Act shall prohibit the right of a
92 person aggrieved under this Act to bring a civil action for violation of rights protected under the
93 Act. In any successful action brought by a customer, employee, or invitee aggrieved under this
94 Act, the court shall award all reasonable personal costs and losses suffered by the aggrieved
95 person as a result of the violation of rights under this Act. In any action brought pursuant to this
96 Act, the court shall award all court costs and attorney's fees to the prevailing party.

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Section 7. [*Exceptions.*] The prohibitions in Section (4) of this Act do not apply to:

(1) Any school property as defined and regulated under [insert citation].

(2) Any correctional institution regulated under [insert citation].

(3) Any property where a nuclear-powered electricity generation facility is located.

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

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

(6) A motor vehicle owned, leased, or rented by a public or private employer or the landlord of a public or private employer.

(7) Any other property owned or leased by a public or private employer or the landlord of a public or private employer upon which possession of a firearm or other legal product by a customer, employee, or invitee is prohibited pursuant to any federal law, contract with a federal government entity, or general law of this state.

Section 8. [*Severability.*] [Insert severability clause.]

Section 9. [*Repealer.*] [Insert repealer clause.]

Section 10. [*Effective Date.*] [Insert effective date.]