

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 1417

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

1 Council/Committee hearing bill: Environment & Natural Resources  
 2 Council  
 3 Representative(s) Baxley offered the following:

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:

8 Section 1. Section 790.251, Florida Statutes, is created  
 9 to read:

10 790.251 Privacy and personal property protection; storage  
 11 of personal property locked inside or locked to a motor vehicle  
 12 in a parking area; prohibited acts; immunity from liability;  
 13 enforcement.--

14 (1) LEGISLATIVE INTENT; FINDINGS.--This act is intended to  
 15 codify the long-standing legislative policy of the state that  
 16 citizens have a constitutional right to privacy, that they have  
 17 a constitutional right to possess and securely keep legal  
 18 private property within their motor vehicles, out of sight,  
 19 particularly such property as is necessary for or incidental to  
 20 their exercise of other constitutional rights, and that these  
 21 rights are not abrogated by virtue of a citizen becoming a  
 22 customer, employee, or invitee of a business entity. It is the

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23 finding of the Legislature that a citizen's lawful possession,  
24 transportation, and secure keeping of certain private property  
25 within his or her motor vehicle is essential to the exercise of  
26 fundamental constitutional rights, including freedom of speech,  
27 freedom of association, the free exercise of religion, and the  
28 right to keep and bear arms. The Legislature finds that  
29 securing individual private property rights is essential. The  
30 Legislature further finds that no citizen is or should be  
31 required to waive or abrogate his or her right to possess and  
32 securely keep such constitutionally significant private property  
33 locked within his or her motor vehicle by virtue of becoming a  
34 customer, employee, or invitee of any employer or business  
35 establishment within the state.

36 (2) PROHIBITED ACTS.--No public or private entity may  
37 violate the constitutional rights of any customer, employee, or  
38 invitee as provided in paragraphs (a)-(e):

39 (a) No public or private entity may prohibit any customer,  
40 employee, or invitee from possessing any personal private  
41 property that is a legal product when such product is lawfully  
42 possessed and locked inside or locked to a private motor  
43 vehicle, out of sight, in a parking lot and when the customer,  
44 employee, or invitee is lawfully in such area.

45 (b) No public or private entity may violate the privacy  
46 rights of a customer, employee, or invitee by verbal or written  
47 inquiry regarding the presence of personal private possessions  
48 inside a private motor vehicle in a parking lot or by an actual  
49 search of a private motor vehicle in a parking lot. Further, no  
50 public or private entity may take any action against a customer,  
51 employee, or invitee based upon verbal or written statements of  
52 any party concerning the presence of personal private  
53 possessions inside a private motor vehicle in a parking lot.

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54 Searches of private motor vehicles may only be conducted by on-  
55 duty law enforcement personnel based upon due process and must  
56 comply with constitutional protections.

57 (c) No employer shall condition employment upon any  
58 agreement by a prospective employee that prohibits an employee  
59 from entering the parking lot of the employer's place of  
60 business when the employee's motor vehicle contains any product  
61 that is locked out of sight within the trunk, glove box, or  
62 other enclosed compartment or area within his or her motor  
63 vehicle, the lawful possession of which is protected by, or the  
64 lawful use of which is incidental to, the exercise of individual  
65 rights protected under the United States Constitution or the  
66 Florida Constitution.

67 (d) No employer shall attempt to prevent or prohibit any  
68 customer, employee, or invitee from entering the parking lot of  
69 the employer's place of business when the customer's,  
70 employee's, or invitee's motor vehicle contains any product that  
71 is locked out of sight within the trunk, glove box, or other  
72 enclosed compartment or area within his or her motor vehicle,  
73 the lawful possession of which is protected by, or the lawful  
74 use of which is incidental to, the exercise of individual rights  
75 protected under the United States Constitution or the Florida  
76 Constitution.

77 (e) No employer may terminate the employment of or  
78 otherwise discriminate against an employee, or expel a customer  
79 or invitee, for exercising his or her constitutional right to  
80 bear arms or for exercising the right of self-defense as long as  
81 a firearm is never exhibited on company property for any reason  
82 other than lawful defensive purposes.

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

87 (3) IMMUNITY FROM LIABILITY.--

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

91 1. Prohibit any customer, employee, or invitee from  
92 possessing legal personal private property in a locked motor  
93 vehicle in the entity's or employer's parking lot;

94 2. Search a motor vehicle in the entity's or employee's  
95 parking lot or inquire regarding personal private possessions in  
96 a locked motor vehicle in the entity's or employer's parking  
97 lot;

98 3. Condition employment upon an agreement regarding the  
99 employee's legal personal private property in a locked motor  
100 vehicle in the entity's or employer's parking lot; or

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

105 (b) Except for public or private entities and employers  
106 subject to the exceptions of subsection (6), a public or private  
107 entity or employer is not liable in a civil action based on  
108 actions or inactions taken in compliance with this section. The  
109 immunity provided in this subsection does not apply to civil  
110 actions based on actions or inactions of public or private  
111 entities or employers which are unrelated to compliance with  
112 this section.

113 (4) ENFORCEMENT.--The Attorney General shall enforce the  
114 protections of this act on behalf of any customer, employee, or

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115 invitee aggrieved under this act if there is reasonable cause to  
116 believe that the aggrieved person's rights under this act have  
117 been violated by a public or private entity. In such cases, the  
118 Attorney General shall commence a civil or administrative action  
119 for damages, injunctive relief and civil penalties, and such  
120 other relief as may be appropriate under the provisions of s.  
121 760.51, or may negotiate a settlement with any employer on  
122 behalf of any person aggrieved under the act. However, nothing  
123 in this act shall prohibit the right of a person aggrieved under  
124 this act to bring a civil action for violation of rights  
125 protected under the act.

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

127 (a) "Parking lot" means any property owned or leased by an  
128 employer or the landlord of an employer that is used for parking  
129 motor vehicles and is available to customers, employees, or  
130 invitees for temporary or long-term parking or storage of motor  
131 vehicles.

132 (b) "Motor vehicle" means any automobile, truck, minivan,  
133 sports utility vehicle, motor home, recreational vehicle,  
134 motorcycle, motor scooter, or any other vehicle operated on the  
135 roads of this state and required to be registered under state  
136 law.

137 (c) "Employee" means any person who:

- 138 1. Works for salary, wages, or other remuneration;  
139 2. Is an independent contractor; or  
140 3. Is a volunteer, intern, or other similar individual

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142 for an employer.

143 (d) "Employer" means any business that is a sole  
144 proprietorship, partnership, corporation, limited liability  
145 company, professional association, cooperative, joint venture,

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146 trust, firm, institution, or association, or public-sector  
147 entity, that has employees.

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

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

153 (a) Property owned or leased by an employer or the  
154 landlord of an employer upon which are conducted substantial  
155 activities involving national defense, aerospace, or domestic  
156 security.

157 (b) Property owned or leased by an employer or the  
158 landlord of an employer upon which the primary business  
159 conducted is the manufacture, use, storage, or transportation of  
160 combustible or explosive materials regulated under state or  
161 federal law if the presence of any legally possessed product in  
162 a parking lot presents an increased danger of explosion or  
163 reasonably predictable catastrophic event.

164 (c) A motor vehicle owned, leased, or rented by an  
165 employer or the landlord of an employer.

166 (d) Any other property owned or leased by an employer or  
167 the landlord of an employer upon which possession of a firearm  
168 or other legal product by a customer, employee, or invitee is  
169 prohibited pursuant to any federal law or any general law of  
170 this state on the effective date of this act.

171 (e) Any school property as defined and regulated under s.  
172 790.115.

173 (f) Any state correctional institution regulated under s.  
174 944.47.

175 (7) SHORT TITLE.--This section may be cited as "The  
176 Individual Personal Private Property Protection Act of 2007."

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

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===== T I T L E A M E N D M E N T =====

Remove the entire title and insert:

A bill to be entitled  
An act relating to the "Individual Personal Private  
Property Protection Act of 2007"; creating s. 790.251,  
F.S.; creating the "Individual Personal Private Property  
Protection Act of 2007"; providing legislative findings  
and intent; prohibiting a public or private entity from  
prohibiting a customer, employee, or invitee from  
possessing any personal private property that is a legal  
product when such product is lawfully possessed and locked  
inside or locked to a private motor vehicle in a parking  
lot; prohibiting a public or private entity from violating  
the privacy rights of a customer, employee, or invitee by  
verbal or written inquiry or actual search of a private  
motor vehicle in a parking lot; prohibiting actions  
against a customer, employee, or invitee based upon verbal  
or written statements concerning the presence of personal  
private possessions inside a private motor vehicle;  
prohibiting an employer from conditioning employment upon  
an agreement by a prospective employee that prohibits  
employees from entering the parking lot of the employer's  
place of business when the employee's motor vehicle  
contains specified products; prohibiting an employer from

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208 attempting to prevent or prohibiting any customer,  
209 employee, or invitee from entering the parking lot of the  
210 employer's place of business when the employee's motor  
211 vehicle contains specified products; prohibiting employers  
212 from terminating the employment of or otherwise  
213 discriminating against an employee, or expelling a  
214 customer or invitee, for exercising his or her  
215 constitutional right to bear arms or exercising the right  
216 of self-defense; providing that such prohibitions apply to  
217 all public-sector employers; providing specified immunity  
218 from liability for employers and landlords of employers;  
219 enumerating specific actions that employers are not  
220 required to take; providing for enforcement of the act;  
221 providing definitions; providing applicability; providing  
222 an effective date.