
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 2049 Session of
2009

INTRODUCED BY PYLE, BAKER, BEAR, BENNINGHOFF, BOBACK, BOYD, BROOKS, CAUSER, CHRISTIANA, CLYMER, COX, CREIGHTON, DAY, DENLINGER, ELLIS, EVERETT, FAIRCHILD, FLECK, GABLER, GEIST, GERGELY, GIBBONS, GILLESPIE, GROVE, GRUCELA, HALUSKA, HARHAI, HARRIS, HESS, HICKERNELL, HUTCHINSON, KAUFFMAN, M. KELLER, KORTZ, KOTIK, KRIEGER, MAHER, MAJOR, MARSHALL, MENSCH, METCALFE, METZGAR, MOUL, MUSTIO, OBERLANDER, PAYNE, PETRARCA, PHILLIPS, PICKETT, RAPP, READSHAW, REED, REESE, REICHLEY, ROAE, ROCK, ROHRER, SAYLOR, SIPTROTH, S. H. SMITH, SOLOBAY, SONNEY, STERN, STEVENSON, SWANGER, TALLMAN, TRUE, TURZAI, VULAKOVICH AND WHITE, OCTOBER 14, 2009

REFERRED TO COMMITTEE ON JUDICIARY, OCTOBER 14, 2009

AN ACT

1 Providing for the possession of firearms in motor vehicles;
2 prohibiting certain acts; imposing duties on employers; and
3 providing for civil immunity under certain circumstances and
4 for enforcement.

5 The General Assembly of the Commonwealth of Pennsylvania
6 hereby enacts as follows:

7 Section 1. Short title.

8 This act shall be known and may be cited as the Preservation
9 and Protection of Firearms in Motor Vehicles Act.

10 Section 2. Definitions.

11 The following words and phrases when used in this act shall
12 have the meanings given to them in this section unless the
13 context clearly indicates otherwise:

14 "Employee." A person who:

- 1 (1) works for salary, wages or other remuneration;
- 2 (2) is an independent contractor; or
- 3 (3) is a volunteer, intern or other similar individual
- 4 for an employer.

5 "Employer." A sole proprietorship, partnership, corporation,
6 limited liability company, professional association,
7 cooperative, joint venture, trust, firm, institution,
8 association or business entity that has employees.

9 "Firearm." The term includes ammunition and accoutrements
10 attendant to the lawful possession and use of a firearm.

11 "Invitee." A business invitee, including a customer or
12 visitor, who is lawfully on the premises of a public or private
13 employer.

14 "Motor vehicle." An automobile, truck, minivan, sports
15 utility vehicle, motor home, recreational vehicle, motorcycle,
16 motor scooter or any other vehicle operated on the roads of this
17 Commonwealth and required to be registered under the laws of
18 this Commonwealth.

19 "Parking lot." Real property that is used for parking motor
20 vehicles and is available to customers, employees or invitees
21 for temporary or long-term parking or storage of motor vehicles.

22 Section 3. Legislative intent.

23 The General Assembly finds and declares that:

- 24 (1) This act is intended to codify the long-standing
25 legislative policy of the Commonwealth that individual
26 citizens have a constitutional right to keep and bear arms,
27 that they have a constitutional right to possess and keep
28 legally owned firearms within their motor vehicles for self-
29 defense and other lawful purposes and that these rights are
30 not abrogated by virtue of a citizen becoming a customer,

1 employee or invitee of a business entity.

2 (2) A citizen's lawful possession, transportation and
3 secure keeping of firearms and ammunition within the
4 citizen's motor vehicle is essential to the exercise of the
5 fundamental constitutional right to keep and bear arms and
6 the constitutional right of self-defense.

7 (3) Protecting and preserving these rights is essential
8 to the exercise of freedom and individual responsibility.

9 (4) No citizen can or should be required to waive or
10 abrogate the right to possess and securely keep firearms and
11 ammunition locked within the citizen's motor vehicle by
12 virtue of becoming a customer, employee or invitee of any
13 employer or business establishment within this Commonwealth,
14 unless specifically required by Federal or State law.

15 Section 4. Prohibited acts.

16 The following acts are prohibited:

17 (1) No public or private employer may prohibit any
18 customer, employee or invitee from possessing any legally
19 owned firearm when the firearm is lawfully possessed and
20 locked inside or locked to a private motor vehicle in a
21 parking lot and when the customer, employee or invitee is
22 lawfully on the premises of the public or private employer.

23 (2) No public or private employer may violate the
24 privacy rights of a customer, employee or invitee by verbal
25 or written inquiry regarding the presence of a firearm inside
26 or locked to a private motor vehicle in a parking lot or by
27 an actual search of a private motor vehicle in a parking lot
28 to ascertain the presence of a firearm within the vehicle.

29 (3) No public or private employer may take any action
30 against a customer, employee or invitee based upon verbal or

1 written statements of any party concerning possession of a
2 firearm stored inside a private motor vehicle in a parking
3 lot for lawful purposes.

4 (4) A search of a private motor vehicle in the parking
5 lot of a public or private employer to ascertain the presence
6 of a firearm within the vehicle may only be conducted by on-
7 duty law enforcement personnel, based upon due process and
8 must comply with constitutional protections.

9 (5) No public or private employer may condition
10 employment on:

11 (i) the fact that an employee or prospective
12 employee holds or does not hold a license for a firearm
13 under the laws of this Commonwealth; or

14 (ii) an agreement by an employee or a prospective
15 employee that prohibits an employee from keeping a legal
16 firearm locked inside or locked to a private motor
17 vehicle in a parking lot when the firearm is kept for
18 lawful purposes.

19 (6) No public or private employer may prohibit or
20 attempt to prevent any customer, employee or invitee from
21 entering the parking lot of the employer's place of business
22 because the customer's, employee's or invitee's private motor
23 vehicle:

24 (i) contains a legal firearm;

25 (ii) the firearm is being carried for lawful
26 purposes; and

27 (iii) the firearm is out of sight within the
28 customer's, employee's or invitee's private motor
29 vehicle.

30 (7) No public or private employer may terminate the

1 employment of or otherwise discriminate against an employee
2 or expel a customer or invitee for exercising the
3 constitutional right to keep and bear arms or for exercising
4 the right of self-defense as long as a firearm is not
5 exhibited on company property for any reason other than
6 lawful defensive purposes.

7 Section 5. Applicability.

8 Section 4 applies to all public-sector employers, including
9 those already prohibited from regulating firearms under the laws
10 of this Commonwealth.

11 Section 6. Duty of care of public and private employers.

12 (a) General rule.--A public or private employer subject to
13 the provisions of section 4 has no duty of care relating to the
14 actions prohibited under section 4.

15 (b) Immunity.--

16 (1) A public or private employer is not liable in a
17 civil action based on actions or inactions taken in
18 compliance with this section.

19 (2) Paragraph (1) does not apply to civil actions based
20 on actions or inactions of public or private employers that
21 are unrelated to compliance with this act.

22 (c) Construction.--Nothing contained in this section shall
23 be construed to expand any existing duty or create any
24 additional duty on the part of a public or private employer,
25 property owner or property owner's agent.

26 Section 7. Enforcement.

27 (a) Attorney General.--

28 (1) The Attorney General shall enforce the provisions of
29 this act on behalf of any customer, employee or invitee
30 aggrieved under this act.

1 (2) If there is reasonable cause to believe that the
2 aggrieved person's rights under this act have been violated
3 by a public or private employer, the Attorney General shall
4 commence a civil or administrative action for damages,
5 injunctive relief and civil penalties and such other relief
6 as may be appropriate, or may negotiate a settlement with any
7 employer on behalf of any person aggrieved under this act.

8 (b) Private causes of action.--

9 (1) Nothing in this act shall be construed to prohibit
10 the right of a person aggrieved under this act to bring a
11 civil action for violation of rights protected under this
12 act.

13 (2) In any successful action brought by a customer,
14 employee or invitee aggrieved under this act, the court shall
15 award all reasonable personal costs and losses suffered by
16 the aggrieved person as a result of the violation of rights
17 under this act.

18 (c) Court costs and attorney fees.--In any action brought
19 pursuant to this act, the court shall award all court costs and
20 reasonable attorney fees to the prevailing party.

21 Section 8. Exceptions.

22 The prohibitions in section 4 do not apply to:

23 (1) Real property owned, leased or controlled by an
24 educational institution.

25 (2) A correctional institution in this Commonwealth.

26 (3) Real property on which a nuclear-powered electricity
27 generation facility is located.

28 (4) Real property owned or leased by a public or private
29 employer or the landlord of a public or private employer upon
30 which are conducted substantial activities involving national

1 defense, aerospace or homeland security.

2 (5) Real property owned or leased by a public or private
3 employer or the landlord of a public or private employer upon
4 which the primary business conducted is the manufacture, use,
5 storage or transportation of combustible or explosive
6 materials regulated under Federal or State law, or real
7 property owned or leased by an employer who has obtained a
8 permit required under 18 U.S.C. § 842 (relating to unlawful
9 acts) to engage in the business of importing, manufacturing
10 or dealing in explosive materials on such property.

11 (6) A motor vehicle owned or leased by a public or
12 private employer or the landlord of a public or private
13 employer.

14 (7) Any other real property owned or leased by a public
15 or private employer or the landlord of a public or private
16 employer upon which possession of a firearm or other legal
17 product by a customer, employee or invitee is prohibited
18 pursuant to any Federal law, contract with a Federal
19 Government entity or law of this Commonwealth.

20 Section 9. Applicability to causes of action.

21 This act shall apply to causes of action that accrue after
22 the effective date of this section.

23 Section 10. Effective date.

24 This act shall take effect in 60 days.