

By Senator Altman

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1 A bill to be entitled
2 An act relating to the regulation of knives and
3 weapons; creating s. 790.332, F.S.; providing a short
4 title; providing legislative intent to preempt the
5 regulation of knives and weapons to the Legislature;
6 providing definitions; prohibiting state agencies and
7 political subdivisions from regulating knives and
8 weapons; providing that certain rules, ordinances, or
9 regulations of a state agency or political subdivision
10 regulating knives or weapons are void; requiring the
11 repeal of rules, ordinances, or regulations regulating
12 knives or weapons by a specified date; authorizing
13 civil actions against a state agency or political
14 subdivision that enacts or fails to repeal a
15 prohibited rule, ordinance, or regulation; providing
16 that certain elected or appointed officials are liable
17 for damages and attorney fees as the result of
18 violations of the act; providing for the termination
19 of employment or removal from office of a person in
20 violation of the act; authorizing the act to be
21 enforced by an organization whose members are
22 adversely affected by the act; providing a directive
23 to the Division of Statutory Revision; providing an
24 effective date.

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26 Be It Enacted by the Legislature of the State of Florida:

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28 Section 1. Section 790.332, Florida Statutes, is created to
29 read:

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30 790.332 Regulation of knives and weapons; preemption to the
31 state.-

32 (1) SHORT TITLE.-This section may be cited as the "Uniform
33 Knife and Weapons Act."

34 (2) LEGISLATIVE INTENT.-The Legislature intends to occupy
35 the whole field of regulation of knives, common pocketknives,
36 and weapons. This section is intended to provide uniformity of
37 laws by prohibiting state agencies and political subdivisions
38 from enacting regulations or restrictions on the sale, transfer,
39 possession, use, and manufacture of knives or weapons. This
40 section is intended to:

41 (a) Require the enforcement of uniform state laws;

42 (b) Mandate the repeal of rules, ordinances, and
43 regulations prohibited by the section;

44 (c) Impose penalties for failing to repeal or enacting
45 rules, ordinances, or regulations that conflict with this
46 section;

47 (d) Render void any rules, ordinances, and regulations in
48 effect on the effective date of this act and prohibit the future
49 enactment of rules, ordinances, or regulations relating to
50 knives, common pocketknives, and weapons by any entity other
51 than the Legislature; and

52 (e) Compel government officials and governmental entities
53 to obey the uniform laws of the state and to constrain the
54 proliferation of regulations and ordinances.

55 (3) DEFINITIONS.-As used in this section, the term:

56 (a) "Common pocketknife" means any knife that can be
57 carried in a pocket, purse, handbag, backpack, briefcase, or
58 sheath, or similar container.

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59 (b) "Knife" means a cutting instrument that includes a
60 sharpened or pointed blade, including a sheath knife commonly
61 used for fishing, hunting, outdoor recreation, or work
62 activities.

63 (c) "Political subdivision" has the same meaning as defined
64 in s. 1.01(8).

65 (d) "State agency" means a separate agency or unit of state
66 government created or established by law and includes, but is
67 not limited to, the following and the officers thereof:
68 authority, board, branch, bureau, commission, department,
69 division, institution, office, officer, or public corporation,
70 as the case may be, except any such agency or unit within the
71 legislative branch of state government other than the Florida
72 Public Service Commission.

73 (e) "Weapon" has the same meaning as defined in s. 790.001.

74 (4) PROHIBITIONS.—

75 (a) A state agency or political subdivision may not enact
76 an ordinance, rule, regulation, or tax relating to, and
77 including, but not limited to, the transportation, possession,
78 carrying, sale, transfer, purchase, gift, devise, licensing,
79 registration, or use of a knife, knife-making components, a
80 common pocketknife, or a weapon.

81 (b) A state agency or political subdivision may not enact a
82 rule, ordinance, or regulation that relates to the manufacture
83 of a knife, common pocketknife, or a weapon.

84 (c) A rule, ordinance, or regulation by a state agency or
85 political subdivision which relates to knives, common
86 pocketknives, or weapons is void on the effective date of this
87 act and must be repealed by the state agency political

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88 subdivision by July 1, 2012.

89 (5) PENALTIES.—

90 (a) A state agency or political subdivision that violates
91 the Legislature's occupation of the whole field of regulation of
92 weapons and knives, as declared in this section, by enacting or
93 causing to be enforced a rule, ordinance, or regulation or
94 failing to repeal a rule, ordinance, or regulation impinging
95 upon such exclusive occupation of the field is liable as set
96 forth in this subsection.

97 (b) If a state agency or political subdivision violates
98 this section, the court must:

99 1. Declare the rule, ordinance, or regulation invalid;

100 2. Issue a permanent injunction against the state agency or
101 political subdivision prohibiting it from enforcing the rule,
102 ordinance, or regulation; and

103 3. Order the repeal of the ordinance, regulation, or rule.

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105 It is not a defense that in enacting or failing to repeal the
106 rule, ordinance, or regulation the state agency or political
107 subdivision was acting in good faith or upon advice of counsel.

108 (c) If the court determines that a violation was knowing
109 and willful, the court must assess the greater of, statutory
110 damages of \$5,000 or actual damages of not more than \$100,000,
111 against the elected or appointed political subdivision official
112 or officials or state agency head under whose jurisdiction the
113 violation occurred.

114 (d) Except as otherwise required by law, public funds may
115 not be used to defend or reimburse a person found to have
116 knowingly and willfully violated this section.

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117 (e) A knowing and willful violation of this section by a
118 person acting in an official capacity for a state agency or
119 political subdivision or otherwise acting under color of law by
120 enacting or causing to be enforced an ordinance, administrative
121 rule, or regulation prohibited under this section is grounds for
122 termination of employment or similar contract or removal from
123 office by the Governor.

124 (f) A person or an organization whose membership is
125 adversely affected by a rule, ordinance, or regulation, measure,
126 directive, enactment, order, or policy adopted or caused to be
127 enforced in violation of this section may file suit against any
128 state agency or political subdivision for declaratory and
129 injunctive relief and for actual damages, as limited by this
130 subsection, caused by the violation. A court shall award the
131 prevailing plaintiff in any such suit:

132 1. Reasonable attorney fees and costs, including a
133 contingency fee multiplier, as authorized by law; and

134 2. The actual damages incurred, but not more than \$100,000.
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136 Interest on the sums awarded pursuant to this subsection shall
137 accrue at the rate established pursuant to s. 55.03 from the
138 date on which suit was filed.

139 Section 2. The Division of Statutory Revision is directed
140 to replace the phrase "the effective date of this act" wherever
141 it occurs in this act with the date this act becomes law.

142 Section 3. This act shall take effect upon becoming a law.