

By Senator Altman

16-00607-14

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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 or ordinances of  
9           a state agency or political subdivision regulating  
10          knives or weapons are void; requiring the repeal of  
11          rules and ordinances regulating knives or weapons by a  
12          specified date; authorizing civil actions against a  
13          state agency or political subdivision that enacts or  
14          fails to repeal a prohibited rule or ordinance;  
15          providing that certain elected or appointed officials  
16          are liable for damages and attorney fees as the result  
17          of violations of the act; providing for the  
18          termination of employment or removal from office of a  
19          person in violation of the act; authorizing  
20          enforcement by an organization whose members are  
21          adversely affected by the act; providing a directive  
22          to the Division of Law Revision and Information;  
23          providing an effective date.

24  
25 Be It Enacted by the Legislature of the State of Florida:

26  
27           Section 1. Section 790.332, Florida Statutes, is created to  
28 read:

29           790.332 Regulation of knives and weapons; preemption to the

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30 state.-

31 (1) SHORT TITLE.—This section may be cited as the “Uniform  
32 Knife and Weapons Act.”

33 (2) LEGISLATIVE INTENT.—It is the intent of the Legislature  
34 to occupy the field of regulation of knives, common  
35 pocketknives, and weapons. It is the further intent of the  
36 Legislature to provide uniformity of laws by prohibiting state  
37 agencies and political subdivisions from enacting rules or  
38 ordinances on the manufacture, sale, transfer, possession, and  
39 use of knives and weapons. It is the further intent of the  
40 Legislature to:

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

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

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

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

50 (e) Compel government officials and governmental entities  
51 to obey the uniform laws of the state and to constrain the  
52 proliferation of rules and ordinances.

53 (3) DEFINITIONS.—As used in this section, the term:

54 (a) “Common pocketknife” means a knife that can be carried  
55 in a pocket, purse, handbag, backpack, briefcase, sheath, or  
56 similar container.

57 (b) “Knife” means a cutting instrument that has a sharpened  
58 or pointed blade, including a sheath knife commonly used for

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59 fishing, hunting, outdoor recreation, or work activities.

60 (c) "Political subdivision" has the same meaning as  
61 provided in s. 1.01.

62 (d) "State agency" means a separate agency or unit of state  
63 government created or established by law and includes, but is  
64 not limited to, the following and their respective officers: an  
65 authority, board, branch, bureau, commission, department,  
66 division, institution, office, or public corporation, except any  
67 such agency or unit within the legislative branch of state  
68 government other than the Florida Public Service Commission.

69 (e) "Weapon" has the same meaning as provided in s.  
70 790.001(13).

71 (4) PROHIBITIONS.—

72 (a) A state agency or political subdivision may not enact a  
73 rule, ordinance, or tax relating to knives, knife-making  
74 components, common pocketknives, or weapons, including, but not  
75 limited to, the use, transportation, possession, carrying, sale,  
76 transfer, purchase, gift, devise, licensing, or registration of  
77 such knives or weapons.

78 (b) A state agency or political subdivision may not enact a  
79 rule or an ordinance that relates to the manufacture of a knife,  
80 common pocketknife, or weapon.

81 (c) A rule or ordinance by a state agency or political  
82 subdivision which relates to knives, common pocketknives, or  
83 weapons is void on the effective date of this act and must be  
84 repealed by the state agency or political subdivision by July 1,  
85 2014.

86 (5) PENALTIES.—

87 (a) A state agency or political subdivision that violates

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88 this section by enacting or causing to be enforced a rule or  
89 ordinance, or failing to repeal a rule or ordinance, is liable  
90 as provided in this subsection. If a state agency or political  
91 subdivision violates this section, the court shall:

- 92 1. Declare the rule or ordinance invalid;  
93 2. Issue a permanent injunction against the state agency or  
94 political subdivision prohibiting it from enforcing the rule or  
95 ordinance; and  
96 3. Order the repeal of the rule or ordinance.

97  
98 It is not a defense that in enacting or failing to repeal the  
99 rule or ordinance the state agency or political subdivision was  
100 acting in good faith or upon advice of counsel.

101 (b) If the court determines that a violation was knowing  
102 and willful, the court shall assess the greater of statutory  
103 damages of \$5,000 or actual damages of up to \$100,000 against  
104 the elected or appointed political subdivision official or state  
105 agency head under whose jurisdiction the violation occurred.

106 (c) Except as otherwise required by law, public funds may  
107 not be used to defend or reimburse an individual found to have  
108 knowingly and willfully violated this section.

109 (d) A knowing and willful violation of this section by an  
110 individual acting in an official capacity for a state agency or  
111 political subdivision or otherwise acting under color of law by  
112 enacting or causing to be enforced an ordinance or  
113 administrative rule prohibited under this section is grounds for  
114 termination of employment or similar contract or removal from  
115 office by the Governor.

116 (e) An individual or organization whose membership is

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117 adversely affected by a rule or ordinance, measure, directive,  
118 enactment, order, or policy adopted or caused to be enforced in  
119 violation of this section may file suit against the state agency  
120 or political subdivision for declaratory and injunctive relief  
121 and for actual damages, as limited by this subsection, caused by  
122 the violation. A court shall award the prevailing plaintiff in  
123 any such suit:

- 124 1. Reasonable attorney fees and costs, including a  
125 contingency fee multiplier, as authorized by law; and  
126 2. The actual damages incurred, up to \$100,000.

127  
128 Interest on the sums awarded pursuant to this subsection accrue  
129 at the rate established pursuant to s. 55.03 from the date on  
130 which the suit was filed.

131 Section 2. The Division of Law Revision and Information is  
132 directed to replace the phrase "the effective date of this act"  
133 wherever it occurs in this act with the date this act becomes a  
134 law.

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