

In bill text the following have special meaning:

green underline denotes added text

~~dark red struck-out text denotes deleted text~~

red text denotes vetoed text

2014 FL S 458

AUTHOR: Altman

VERSION: Prefiled

VERSION DATE: 12/02/2013

Florida Senate - 2014

SB 458

By Senator Altman

A bill to be entitled

An act relating to the regulation of knives and weapons; creating s. 790.332, F.S.; providing a short title; providing legislative intent to preempt the regulation of knives and weapons to the Legislature; providing definitions; prohibiting state agencies and political subdivisions from regulating knives and weapons; providing that certain rules or ordinances of a state agency or political subdivision regulating knives or weapons are void; requiring the repeal of rules and ordinances regulating knives or weapons by a specified date; authorizing civil actions against a state agency or political subdivision that enacts or fails to repeal a prohibited rule or ordinance; providing that certain elected or appointed officials are liable for damages and attorney fees as the result of violations of the act; providing for the termination of employment or removal from office of a person in violation of the act; authorizing enforcement by an organization whose members are adversely affected by the act; providing a directive to the Division of Law Revision and Information; providing an effective date.

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

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

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

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

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

(a) Require the enforcement of uniform state laws;

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

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

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

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

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

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

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

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

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

Commission.

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

(4) PROHIBITIONS. --

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

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

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

(5) PENALTIES. --

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

1. Declare the rule or ordinance invalid;

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

3. Order the repeal of the rule or ordinance.

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

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

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

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

(e) An individual or organization whose membership is adversely affected by a rule or ordinance, measure, directive, enactment, order, or policy adopted or caused to be enforced in violation of this section may file suit against the state agency or political subdivision for declaratory and injunctive relief and for actual damages, as limited by this subsection, caused by the violation. A court shall award the prevailing plaintiff in any such suit:

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

2. The actual damages incurred, up to \$100,000.

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

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

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