

Knife Rights White Paper: Knife Law Preemption

Over the years many local governments have enacted ordinances and laws banning the possession, carry, and manufacture of certain types of knives. These laws are often more restrictive than state law. This is especially true in states where state knife bans have been repealed.

These include knives that the average person would consider perfectly legal and many knives that are named, but which are not defined in the law. In some instances cities, towns, counties and other political subdivisions have kept laws on the books referring to the possession of knives that seemingly defy definition like "dirk," "dagger," "Bowie," and "stiletto" or which arbitrarily limit the length of certain type knives or outlaw some mechanical designs like locking blades or "spring blade" or automatic (switchblade) knives, as examples.

These terms have been on the books for many years and were largely ignored. Today we are increasingly finding jurisdictions that use these definitions to define any knife they, or a particular law enforcement officer on the beat, simply don't like. They make an arrest for possession and then let the judge sort it out causing the defendant legal problems, significant expense and contributing to the backlog in our courts. Sometimes knife owners are found guilty on bogus charges and end up with a criminal record because they don't receive the best counsel. Occasionally the results are tragic, as we saw in the Freddie Gray case in Baltimore.

Poorly thought-out or biased judicial determinations referencing these undefined knife types often create legally difficult precedents and serious problems for knife owners. Those arrested for violating local knife ordinances are disproportionately lower income and minorities.

It should be noted that, according to law enforcement authorities, the vast majority of crimes committed with a knife are committed with common kitchen knives, which nobody suggests should be banned or regulated.

Knife Law Preemption repeals and prevents local ordinances more restrictive than state law which only serve to confuse or entrap law-abiding citizens traveling within or through the state. Preemption ensures citizens can expect consistent enforcement of state knife laws everywhere in a state. Knife law Preemption is criminal justice reform and generally gains bipartisan support.

Firearms preemption is the law in 47 states. These laws preempt the ordinances and laws of local jurisdictions making the state the sole authority on gun laws.

The same must be done for knife laws. Knife Rights authored and passed the nation's first Knife Law Preemption bill in Arizona in 2010 and has since passed preemption bills in Alaska, Georgia, Kansas, Nebraska, New Hampshire, Ohio, Oklahoma, Tennessee, Texas, Utah, West Virginia and Wisconsin.

Knife law preemption is needed in all 50 states to protect law abiding knife owners from inadvertently violating some obscure local knife law and causing themselves a mountain of legal headaches or worse.

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Consistency in Knife Regulation Act

Summary : This Act would prohibit local jurisdictions from independently enacting restrictions on the possession, use, and manufacture of knives. It will also render null and void any ordinances not repealed by local jurisdictions.

Model Legislation

{Title, enacting clause, etc.}

A. A political subdivision of this state shall not enact any ordinance, rule or tax relating to the transportation, possession, carrying, sale, transfer, purchase, gift, devise, licensing, registration or use of a knife or knife making components in this state.

B. A political subdivision of this state shall not enact any rule or ordinance relating to the manufacture of a knife that is more restrictive than any rule or ordinance relating to the manufacture of any other commercial goods.

C. A political subdivision's rule or ordinance that relates to knives, whether enacted before or after the effective date of this section, shall be repealed and is null and void.

Definitions:

D. For the purposes of this section:

1. "Knife" means a cutting instrument and includes a sharpened or pointed blade.
2. "Political subdivision" includes any county, city, including a charter city, town, municipal corporation or special district, any board, commission or agency of a county, city, including a charter city, town, municipal corporation or special district or any other local public agency.

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