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H. 49 Background

Knife Law Preemption General Facts

Over the years many local governments have enacted laws banning the possession, carry, use, and manufacture of certain types of knives. This created a situation where the knife laws change from town to town, regardless of state law. What is legal to possess or carry in one town may be a serious crime to possess or carry in the next town over. This patchwork of laws is unreasonable, hard to enforce, and almost impossible for the average citizen to be aware of or understand. It is also likely unconstitutional.

Even in places where such local regulations don't currently exist, all it takes is an activist politician to change the rules and wreak havoc on innocent citizens, as we have seen in states such as New York and North Carolina.

Knife Law Preemption makes the state the sole authority on knife law. It repeals the confusing patchwork of local laws and ordinances more restrictive than state law that trap unwary citizens and prevents passage of such local laws and ordinances in the future.

Individual constitutional rights should not be left to discretion of local governments. State preemption of the law is commonplace for all individual civil rights. Few would argue that local government can regulate protected speech, for example.

Over the past decade, specific firearms preemption laws have been passed in 43 states and in five states was already the law via judicial decisions that recognized that an individual civil right was a state issue. Forty eight (48) of the fifty (50) states have firearms preemption. Despite dire warnings and some pushback from local governments, passage of firearms preemption never resulted in any crime wave or adverse consequences at all. Not a single state has attempted to repeal their firearms preemption law. A number of states have even beefed up their firearms preemption laws recently to deal with recalcitrant local jurisdictions who have failed to abide by the existing preemption law.

Knives are also protected arms under the Second Amendment and as such were referenced in both the Heller and McDonald U.S. Supreme Court decisions that determined that this was an individual right and was incorporated to the states. While knives are used primarily as tools by millions of Americans every day, they are occasionally used as arms in defense of one's self, family and home.

Last year the first detailed scholarly analysis of Knives and the Second Amendment was published in the University of Michigan Journal of Law Reform, authored by noted Second Amendment scholars Dave Kopel, Clayton Cramer and Joe Olson. The complete article can be downloaded at: <http://www.kniferights.org/Knives-and-the-Second-Amendment.pdf>

Preemption ensures that both citizens and law enforcement know the law and ensures consistent enforcement throughout the state. It allows travelers to and through the state to readily find out what the law is so they can avoid inadvertently breaking the law.

In 2010 Arizona enacted the nation's first Knife Preemption Law. Utah and New Hampshire followed suit in 2011; Georgia enacted Knife Law Preemption in 2012; Alaska, Kansas and Tennessee enacted Knife Law Preemption in 2013 and Kansas strengthened its Knife Preemption Law in 2014. In 2015, Texas and Oklahoma passed Knife Law Preemption. No adverse issues have arisen with the passage of preemption in these states, and there has been no effort to repeal preemption.