

Department of Finance and Administration

Legislative Impact Statement

Bill: HB1668

Bill Subtitle: CONCERNING KNIFE REGULATION.

Basic Change :

Representative Barnett

The proposal would create new restrictions on political subdivisions of the State in the regulation of knives. Political subdivision's of this state would not be allowed to enact ordinances, rules, or taxes relating to the transportation, possession, carrying, sale, transfer, purchase, gift, devise, licensing, registration, or use of a knife or components used to make a knife. Restrictions are also provided for rules and ordinances regarding the manufacture of knives. The bill would also repeal any ordinance adopted by a political subdivision whether adopted before or after the effective date of the act that relates to knives. The proposal would be effective 90 days after final adjournment.

Revenue Impact :

City and County Sales Taxes are levied by a vote of the people after adoption of ordinances by city council's and county quorum courts. The sales taxes are levied on all sales of tangible personal property, unless specifically exempted by law, and are collected on sales of knives. The proposal would appear to repeal all local city and county sales taxes in Arkansas.

Taxpayer Impact :

Ordinances levying taxes on knives would be repealed. Sellers would no longer collect city and county sales taxes.

Resources Required :

None

Time Required :

None

Procedural Changes :

No longer administer the collection or local sales taxes which would be repealed.

Other Comments :

The bill should be amended to remove the application of the bill's provisions to city and county sales taxes.

Legal Analysis :

The bill prohibits any rule or ordinance relating to knives and repeals or voids all existing ordinances and rules relating to knives. City and County sales taxes are enacted through ordinances and would apply to the sale of knives. This bill arguably repeals existing city and county sales taxes because they "relate[] to knives." This is not repeal by implication, but a direct consequence of the bill.

Additionally, the bill arguably attempts to create an implied exemption to local sales and use tax on the sale of knives. There is no express statement of tax exemption as required by the Arkansas courts, but a prohibition on any ordinance, by which a tax would be enacted, "relat[ing] to knives." The State Sales Tax still applies to these transfers because "political subdivision" does not include the State. Implied exemptions to tax are expressly refuted by the Arkansas Supreme Court.