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OHIO LEGISLATIVE SERVICE COMMISSION

Office of Research
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H.B. 243*
134th General Assembly

Bill Analysis

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Version: As Reported by House Government Oversight

Primary Sponsor: Rep. Cutrona

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SUMMARY

- Establishes knives as arms necessary for the exercise of fundamental individual rights, along with firearms, parts of firearms, the components of a firearm, and firearm ammunition.
- Repeals any contrary license, permission, restriction, delay, process, ordinance, rule, regulation, resolution, practice, or other action or any threat of citation, prosecution, or other legal process.

DETAILED ANALYSIS

Regulation of knives prohibited

The bill prohibits “any ordinance, rule, regulation, resolution, practice, or other action or any threat of citation, prosecution, or other legal process” from inhibiting a person’s ability to “own, possess, purchase, acquire, transport, store, carry, sell, transfer, manufacture, or keep” any knife. Current law prohibits any such inhibition of a person’s ability to own, possess, purchase, acquire, transport, store, carry, sell, transfer, manufacture, or keep any firearm, part of a firearm, its components, and its ammunition. Under the bill, a “knife” is defined as “a cutting instrument and includes a sharpened or pointed blade.” The bill also defines “arms” as both knives and firearms.¹

Additionally, the bill “preempts, supersedes, and declares null and void” any license, permission, restriction, delay, process, ordinance, rule, regulation, resolution, practice, or other action or any threat of citation, prosecution, or other legal process that “interferes with the

* This analysis was prepared before the report of the House Government Oversight Committee appeared in the House Journal. Note that the legislative history may be incomplete.

¹ R.C. 9.68; R.C. 2923.11, not in the bill.

fundamental individual right” of people to protect “themselves, their families, and others from intruders and attackers” or that interferes with “other legitimate uses of constitutionally protected arms, including hunting and sporting activities.”²

The bill allows a person, group, or entity who is affected by any manner of regulation of knives by a political subdivision to bring a civil action against the political subdivision in order to seek damages, declaratory relief, injunctive relief, or a combination of those remedies. Any damages awarded as a result of such an action must be paid by the offending political subdivision, which must also pay for reasonable expenses either (1) if the plaintiff prevails in the civil action or (2) if the ordinance, rule, regulation, resolution, practice, or action or the manner of enforcement being challenged is repealed or rescinded after the civil action is filed but before a final court determination is made.³

The bill does not apply to the regulation or prohibition of knives in areas zoned for residential or agricultural uses. Nor does the bill apply to a zoning ordinance that specifies the hours of operation or the geographic areas where the commercial sale of such items may occur, as long as such a zoning ordinance does not result in a *de facto* prohibition of the commercial sale of such items.⁴

COMMENT

The bill has the potential to be challenged under the Home Rule Amendment to the Ohio Constitution as applied to municipal corporations and charter counties. Municipal corporations and charter counties have the power to “adopt and enforce local police, sanitary, and other similar laws as are not in conflict with general laws.”⁵ By prohibiting a municipal corporation or charter county from regulating knives, the bill might infringe upon this authority. An ordinance must not conflict with a statute of the General Assembly that is a “general law.” Not all laws enacted by the General Assembly are “general laws” for home rule purposes. A law is a general law only if it:

- Is part of a statewide and comprehensive legislative enactment;
- Applies to all parts of the state alike and operates uniformly throughout the state;
- Sets forth police, sanitary, or similar regulations, *rather than purporting only to grant or limit legislative power of a municipal corporation to set forth police, sanitary, or similar regulations* [emphasis added]; and
- Prescribes a rule of conduct upon citizens generally.⁶

² R.C. 9.68(A).

³ R.C. 9.68(B).

⁴ R.C. 9.68(D).

⁵ Ohio Constitution, Article XVIII, Section 3 and Article X, Section 3.

⁶ *Canton v. State*, 95 Ohio St.3d 149 (2002).

HISTORY

Action	Date
Introduced	03-31-21
Reported, H. Government Oversight	---
