

**HB**

**55**

<TARGET><BILL>HB 55</BILL><SUBJECT>HB  
55</SUBJECT><COMM>HJUD27</COMM></TARGET>

# ALASKA STATE LEGISLATURE

**Member:**  
House Finance Committee  
Legislative Budget & Audit Committee



**Chair:**  
House Budget Sub Committees on:  
- Department of Administration  
- Department of Labor and Workforce  
Development

**Session:**  
Alaska State Capitol  
Juneau, AK 99801-1182  
Phone: (907) 465-2679  
Fax: (907) 465-4822  
Toll Free (800) 505-2678

**Interim:**  
600 E. Railroad Ave  
Wasilla, AK 99654  
Phone: (907) 376-2679  
Fax: (907) 373-4745

## *Representative Mark Neuman*

Rep.Mark.Neuman@legis.state.ak.us

February 1, 2012

Dear Representative Gatto

Subject: HB 55 *"An Act adding definitions of 'gravity knife' and 'switchblade' to the criminal law."*

Please consider scheduling this legislation for a hearing at your earliest convenience. Providing my office with some lead time will be greatly appreciated as I plan to have a leading national advocate available to answer any questions the committee may have. Attached is a committee package.

Included are the following:

- Letter of Request
- Current version of the bill.
- Sponsor statement.
- 2012 Fiscal Notes
- Names of persons expected to testify (will depend on hearing date).

Please feel free to contact myself or my aide Rex Shattuck (465-2696) with any questions.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink, appearing to read "Mark Neuman", with a long horizontal flourish extending to the right.

Representative Mark Neuman

# ALASKA STATE LEGISLATURE

**Member:**  
House Finance Committee  
Legislative Budget & Audit Committee



**Chair:**  
House Budget Sub Committees on:  
- Department of Administration  
- Department of Labor and Workforce  
Development

**Session:**  
Alaska State Capitol  
Juneau, AK 99801-1182  
Phone: (907) 465-2679  
Fax: (907) 465-4822  
Toll Free (800) 505-2678

**Interim:**  
600 E. Railroad Ave  
Wasilla, AK 99654  
Phone: (907) 376-2679  
Fax: (907) 373-4745

## ***Representative Mark Neuman***

Rep.Mark.Neuman@legis.state.ak.us

### **Sponsor Statement HB 55 Knife Rights Act**

#### ***"An Act adding definitions of 'gravity knife' and 'switchblade' to the criminal law."***

In Alaska, spring loaded knives are an important tool used by hunters, anglers, and craftsmen. According to the American Knife and Tool Institute, there are over 35.6 million Americans who carry and use some type of utilitarian knife which opens with one hand. In the United States, assisted-opening and one-hand-opening knives now make up 80 percent of all knives sold.

In recent years some jurisdictions have acted to restrict the type of knives individuals may carry. In a number of instances this has been done by attempting to define common pocketknives as switchblades, gravity knives, or other knives.

Frequently that switchblade definition is assigned to a knife capable of being opened with one hand and having a "bias towards closure". A "bias toward closure" simply means it has a spring, detent, or other mechanism, which maintains the knife in a closed position until the bias is overcome with applied pressure.

A knife of this configuration falls short of the definition of switchblade used in other states and by the federal government: "...any knife having a blade which opens automatically (1) by hand pressure applied to a button or other device in the handle of the knife, or (2) by operation of inertia, gravity, or both."

Presently Alaskan's are able to purchase these knives in Alaska and online. They are used in the work environment and in recreation. This bill simply clarifies that one handed hunting and utility knives do not qualify as a switchblade and as such are legally owned.

I would appreciate your support

27-LS0298\A

**HOUSE BILL NO. 55**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES NEUMAN AND LYNN, Costello, Thompson, Peggy Wilson, Millett

Introduced: 1/18/11

Referred: Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act adding definitions of 'gravity knife' and 'switchblade' to the criminal law."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 \* **Section 1.** AS 11.81.900(b) is amended by adding new paragraphs to read:

4 (65) "gravity knife" means any knife that has a blade that opens or  
5 releases a blade from its handle or sheath by the force of gravity or by the application  
6 of centrifugal force; "gravity knife" does not include a knife that has a spring, detent,  
7 or other mechanism designed to create a bias toward closure that requires a person to  
8 apply exertion to the blade by hand, wrist, or arm to overcome the bias toward closure  
9 and open or release the blade;

10 (66) "switchblade" means any knife that has a blade that folds, closes,  
11 or retracts into the handle or sheath that opens automatically by pressure applied to a  
12 button or other device located on the handle or sheath; "switchblade" does not include  
13 a knife that has a spring, detent, or other mechanism designed to create a bias toward  
14 closure that requires exertion applied to the blade by hand, wrist, or arm to overcome  
15 the bias toward closure and open the blade.

**AMENDMENT**

OFFERED IN THE HOUSE  
TO: HB 55

BY REPRESENTATIVE NEUMAN

1 Page 1, line 1, following "law":

2 Insert "; and relating to reserving the authority to regulate knives to the state with  
3 limited exceptions for municipalities to regulate knives."  
4

5 Page 1, following line 15:

6 Insert new bill sections to read:

7 "\* Sec. 2. AS 29.10.200(40) is amended to read:

8 (40) AS 29.35.145 (regulation of firearms **and knives**);

9 \* Sec. 3. AS 29.35.145(a) is amended to read:

10 (a) The authority to regulate firearms **and knives** is reserved to the state, and,  
11 except as specifically provided by statute, a municipality may not enact or enforce an  
12 ordinance regulating the possession, ownership, sale, transfer, use, carrying,  
13 transportation, licensing, taxation, or registration of firearms **or knives**.

14 \* Sec. 4. AS 29.35.145(b) is amended to read:

15 (b) Municipalities may enact and enforce ordinances

16 (1) that are identical to state law and that have the same penalty as  
17 provided for by state law;

18 (2) restricting the discharge of firearms in any portion of their  
19 respective jurisdictions where there is a reasonable likelihood that people, domestic  
20 animals, or property will be jeopardized; ordinances enacted or enforced under this  
21 paragraph may not abridge the right of the individual guaranteed by art. I, sec. 19,  
22 Constitution of the State of Alaska, to bear arms in defense of self or others;

23 (3) restricting the areas in their respective jurisdictions in which

1 firearms or knives may be sold; a business selling firearms or knives may not be  
2 treated more restrictively than other businesses located within the same zone; and

3 (4) prohibiting the possession of firearms or knives in the restricted  
4 access area of municipal government buildings; the municipal assembly shall post  
5 notice of the prohibition against possession of firearms or knives at each entrance to  
6 the restricted access area."

# FISCAL NOTE

**STATE OF ALASKA**  
**2012 LEGISLATIVE SESSION**

Bill Version HB 55  
 Fiscal Note Number \_\_\_\_\_  
 () Publish Date \_\_\_\_\_

Identifier (file name) HB055-LAW-CRIM-02-10-12 Dept. Affected Law  
 Title An Act adding definitions of 'gravity knife' and Appropriation Criminal  
'switchblade' to the criminal law Allocation Criminal Justice Litigation  
 Sponsor REPRESENTATIVE (s) NEUMAN, LYNN  
 Requester (H) Judiciary OMB Component Number 2202

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates					
			FY13	FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>								
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel								
Services								
Commodities								
Capital Outlay								
Grants, Benefits								
Miscellaneous								
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE** (Thousands of Dollars)

1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS**

Full-time							
Part-time							
Temporary							

**CHANGE IN REVENUES**

--	--	--	--	--	--	--	--

Estimated **SUPPLEMENTAL (FY12) operating costs** \_\_\_\_\_ (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** \_\_\_\_\_ (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**Why this fiscal note differs from previous version (if initial version, please note as such)**

Not applicable, initial version.

Prepared by Eileen Donahue, Division Operations Manager  
 Division Administrative Services  
 Approved by Michael C. Geraghty, Attorney General  
Department of Law

Phone 465-5427  
 Date/Time 2/10/12 4:30 PM  
 Date 2/10/2012

**FISCAL NOTE**

**STATE OF ALASKA  
2012 LEGISLATIVE SESSION**

**BILL NO.** HB 55

**Analysis**

HB 55 proposes two new definitions for Title 11. Gravity knife is defined as is switchblade.

Fiscal impact to the Department is zero.

# LEGAL SERVICES

DIVISION OF LEGAL AND RESEARCH SERVICES  
LEGISLATIVE AFFAIRS AGENCY  
STATE OF ALASKA

(907) 465-3867 or 465-2450  
FAX (907) 465-2029  
Mail Stop 3101


State Capitol  
Juneau, Alaska 99801-1182  
Deliveries to: 129 6th St., Rm. 329

## MEMORANDUM

December 17, 2010

**SUBJECT:** Draft definitions of "switchblade" and "gravity knife"  
(Work Order No. 27-LS0298\A)

**TO:** Representative Mark Neuman  
Attn: Rex Shattuck

**FROM:** Dan Wayne   
Legislative Counsel

I've prepared the enclosed draft bill, based on language from Texas, as asked. The draft defines "gravity knife" separately in order to distinguish gravity knives from switchblades and because "gravity knife" is in the same sentence as "switchblade" in the only two places (AS 11.61.210 and 11.61.220) where "switchblade" appears in the Alaska Statutes. I also modified the language you provided, slightly, for reasons of drafting style.

In two Alaska cases, the Alaska Supreme Court has considered how to define "gravity knife" and "switchblade" in the absence of a statutory definition. The court upheld a weapons crime conviction in one case, finding that the term "gravity knife" is not improperly vague but has a readily ascertainable and consistent definition. According to the Court, in that case, a gravity knife is one in which the blade opens, falls into place, or is ejected into position by the force of gravity or by centrifugal force. *State v. Weaver*, 736 P.2d 781 (Alaska Ct. App. 1987). A few years later, the Court affirmed a lower court's dismissal of a weapons charge, reasoning that butterfly knives and balisong knives do not fit within the common definition of "gravity knife." *State v. Strange*, 785 P.2d 563 (Alaska Ct. App. 1990). I've enclosed a copy of *State v. Strange* to this memo because the court's discussion of various knives and their definitions might be of use.

If I may be of further assistance, please advise.

DCW:ljw  
10-461.ljw

Enclosures

# Knife Definitions

## Introduction

In an effort to limit the type of knives that can be legally imported into the United States, the Department of Homeland Secretary proposed revocation of the admissibility of certain knives with spring assisted opening mechanisms. This proposal would establish a new definition for qualifying switchblade knives.

Under the Switchblade Knife Act of 1958, a switchblade is defined as any knife with a blade which opens automatically by hand pressure applied to a button or other device in the handle of the knife, or by operation of inertia, gravity, or both. The proposed regulation would designate one-hand and assisted opening knives as being switchblades, even though the federal law does not declare these knives as switchblades.

## Issue

Spring loaded knives are an important tool for hunters and anglers. According to the American Knife and Tool Institute, there are over 35.6 million Americans, including many who are hunters and anglers, who carry and use some type of utilitarian knife which opens with one hand. In the United States, assisted-opening and one-hand-opening knives are 80 percent of all knives sold. Spring loaded hunting knives should not qualify as switchblade knives.

## Language

The Texas State Legislature passed H.B. No. 4456. This bill provided the state definition for qualifying switchblade knives.

1. "Switchblade knife" means any knife that has a blade that folds, closes, or retracts into the handle or sheath that opens automatically by pressure applied to a button or other device located on the handle, or opens or releases a blade from the handle or sheath by the force of gravity or by the application of centrifugal force.
2. The term (Switchblade) does not include a knife that has a spring, detent, or other mechanism designed to create a bias toward closure that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure and open the knife.

## Points of Interest

- Court cases in several states such as California, Illinois, Michigan, and Texas, have all ruled in favor of assisted-opening and one-hand opening knives. These knives are not considered switchblades because they do not possess the activating button or device on the handle of the knife.

## Contact

For more information regarding this issue, please contact: Jennifer Lundy or Bethany O' Donovan (202) 543-6850; [Jennifer@sportsmenlink.org](mailto:Jennifer@sportsmenlink.org) or [Bethany@sportsmenlink.org](mailto:Bethany@sportsmenlink.org)

## Apprentice Hunting License

### Introduction

The apprentice hunting license is an idea in which hunters may hunt prior to having passed a hunter education course. The idea of “try before you buy” is the driving force behind this new recruitment tool. These laws provide novice hunters, who have yet to pass the education course, the chance to purchase an apprentice hunting license and hunt under the direct supervision of a licensed hunter. The apprentice hunter receives hands-on experience and additional incentive to complete hunter education. In some states the apprentice hunting license is also called the mentored hunter program.

### Language

By incorporating the views of our partners and other state legislators who have passed this legislation, we present the following language:

The state may issue to a person a temporary firearm and/or hunter education deferral license which shall exempt the person from the requirement for successful completion of a firearm and hunter education course prior to obtaining a hunting license.

The fee for such deferral license shall be (\$ or free). For residents, the deferral license shall be valid for (variable time period depending on the state) from the date of issuance and shall be issued in lieu of basic hunting, big game, bow, muzzleloader, and state waterfowl licenses, turkey hunting stamps, and WMA hunting permits. For nonresidents, the deferral license shall be valid for (variable time period depending on the state) and shall be purchased in addition to nonresident basic hunting, big game, bow, muzzleloader, and state waterfowl licenses, turkey hunting stamps, or WMA hunting permits.

The recipient of a deferral license shall carry the deferral license on him while hunting and shall be accompanied by and under the direct supervision of a person who is eighteen years of age or older and has a valid hunting license.”

### Points of Interest

It is the duty of each caucus leadership team to determine the best means of action in your respective state and modify the above language as necessary. If the language must be modified, please keep in mind the following:

- Laws such as minimum age requirements and coursework mandates can be relaxed without compromising safety.
- The time period for which the apprentice licenses are valid is different state to state, as is the minimum age requirement.
- Apprentice opportunities should be available to each person for a minimum of three years because the process of recruiting a new hunter may take several years due to limited opportunity. For this reason, many states allow multiple year extensions.

### History

The issue was introduced to NASC at the 2005 NASC Annual Meeting and issued as a NASC issue brief during the 2006 legislative session. In 2010 Vermont became the 30<sup>th</sup> state to pass the apprentice hunting license.

### Contact

For more information regarding this issue, please contact:

Jennifer Lundy or Bethany O' Donovan (202) 543-6907; [Jennifer@sportsmenslink.org](mailto:Jennifer@sportsmenslink.org) or

[Bethanv@sportsmenslink.org](mailto:Bethanv@sportsmenslink.org)

2/15/2012

Dear Representative,

The possession of a knife in Alaska is not just a common practice, as it may be in other states, but in many cases the possession of a knife in Alaska is a necessity, which can determine the difference between life and death, between surviving and perishing.

Alaska currently has a prohibition on the possession of gravity knives and switchblade knives. Unfortunately, in many states the standard definition of these knives as used in Alaska's current statute, has resulted in the prosecution and jailing of people in possession of knives which are not, in fact, gravity knives or switchblade knives. Rather, these are folding pocket knives that are commonly used for hunting, fishing, camping, hiking, on worksites and other outdoor and everyday activities, and represent some 80% of the knives sold in the U.S. today.

In many states this definition has led to thousands of dollars in fines and court costs, for both the defendants and the jurisdictions prosecuting them. HB55 would clarify the definition of gravity knives and switchblade knives so it clearly does not include average, everyday knives that are commonly in possession by the public. HB55 protects honest law abiding Alaskans from potential legal jeopardy.

**Knife Law Preemption Amendment:**

Because knives are so prevalent in Alaska and possession is so common, knife laws around the state should be consistent. What is legal in Juneau should be legal in Barrow. Alaskans should be able to know that the law is consistent statewide. Alaskans already benefit from state firearms preemption, which makes the gun laws of Alaska consistent throughout the state. The same should hold true for knives.

Preemption would assure that if you change the definition of switchblades and gravity knives with HB55 ,it will apply statewide.

As we have seen in recent U.S. Supreme Court rulings, the Second Amendment is an individual right and that right has been incorporated to apply in the states. For this reason alone, all states should have knife preemption laws to assure that citizens are protected from onerous local laws, which infringe on their rights.

Beyond that argument, knife preemption laws make sense. Preemption allows law enforcement as well as citizens to know that what is legal in Anchorage is legal everywhere in Alaska.

It is for these reasons, as well as others, that Knife Rights strongly urges you to vote YES on HB55 and YES on the preemption amendment.



Todd Rathner  
Knife Rights, Director of Legislative Affairs

Knife Rights, Inc.

[www.KnifeRights.org](http://www.KnifeRights.org) ♦ [twitter.com/KnifeRights](https://twitter.com/KnifeRights)

313 W. Temple Ct., Gilbert, AZ 85299 ♦ 866.889.6268 ♦ 602.476.2702 ♦ Fax 602.324.7548

April 6, 2011

A letter in regards to HB 55 (2 pages)

DEAR REP. NEUMAN

AND  
CO-SPONSORSHIP

As a lifelong Alaskan, I would like to express my appreciation for your support of HB55: "An Act adding definitions of 'gravity knife' and 'switchblade' to the Criminal Law". I presume it was motivated by the recent attempt by US Customs to redefine "switchblade" in Federal law to include common one-handed opening pocket knives, the same pocket knives owned and carried by thousands of law-abiding Alaskans. That something so obvious need be formalized in law is disheartening and seemingly unnecessary.

My purpose in writing, however, is to address another seemingly unnecessary bit of law; the restriction on the purchase and transfer of those gravity knives and switchblades in Alaska state statute and the existence of differing restrictions on their possession and carry at the Municipal level. As you may or may not be aware, over half the states in the US currently allow the purchase, transfer, and possession of automatic knives by law-abiding citizens. Most of those allow the public carry of those knives as well. There is no evidence that those states have a higher incidence of "knife crime" or suffer any degradation in public safety.

I realize on first reflection automatic knives may seem worthy of heightened regulation but, when looked at more closely, the fact we need a HB 55 at all supports the fact that today there is little to no practical functional or public safety difference between a knife that opens almost instantaneously with the flick of a thumb and one that does so by the same thumb pressing a button; as far as their potential misuse as a weapon goes, once opened a blade is a blade.

The current exceptions in the law for law enforcement and active military personnel also appear to support this interpretation. As far as I can tell the exceptions do not exist because members of those groups prefer to use automatic knives as weapons but rather that a quality automatic knife is easier and more reliable to use as a safety tool in certain emergency situations (cutting oneself or others free of seatbelts, entangling ropes or various types of harnesses, etc) than one that requires even a modicum more effort. Given that many "civilian" Alaskans participate in the same type of "extreme" activities and can thus find themselves in the same emergency situations as average military and law enforcement members, the exceptions seem arbitrary.

Looking at the laws themselves, like most gun possession and carry ordinances nationwide "switchblade" laws almost uniformly were enacted as a result of fear and prejudices, not any facts or public safety issues. In the case of "switchblades" the fear was of dangerous "knife culture" minorities, fears promulgated by exploitive movies and the yellow journalism of the day. Rather than looking backward to criticize such laws though, we should instead look at what other states who share Alaska's strong Constitutional RKBA are doing today.

Arizona, Utah, and New Hampshire have recently included automatic knives in their state RKBA preemptions, there is no reason Alaska shouldn't do the same. After all, if we are prepared to allow law-abiding Alaskans to carry loaded firearms in public with only a few limitations, to restrict those same Alaskan's ability to own and carry a knife, a tool by design, merely because of how it opens is ludicrous.

In the spirit of the Right to Keep and Bear all personal Arms enshrined in the Alaska Constitution, I ask that you consider amending HB 55 or introduce additional legislation to treat all non-firearm weapons, as defined in statute as either "deadly weapons" (primarily bladed and impact) or "defensive weapons" (whether chemical (pepper spray/Mace) or electrical (TASERS/ stun guns)), as lawful for purchase, possession and carry statewide, openly or concealed, by law-abiding, non-prohibited Alaskans, preempted from the existing patchwork of additional local and Municipal regulations.

Just as with firearms, this would still allow the restriction of ownership and carry by those deemed underage, by prohibited persons, and in areas currently off limits such as courthouses and other statutorily-restricted locations. K-12 schools could still restrict weapons possession by students and visitors and private businesses would remain free to refuse entry and service to people so armed. Those who actually misused any weapon would still be subject to existing criminal and civil sanctions.

I thank you for your thoughtful consideration and hope that you take this opportunity to bring additional reason and consistency to Alaska's weapons laws.

Respectfully,



Matthew Carberry

[matthewacarberr@gmail.com](mailto:matthewacarberr@gmail.com)

(907)229-5915

House District 30

PS: On a side note, the only other weapons specifically restricted in state statute are "metal knuckles", which perhaps unsurprisingly share the same racist and media-contrived regulatory history of automatic knives. While there may not be any real "need" for the law-abiding to possess and carry them, the same argument could apply to many other common arms. In any event, the state RKBA doesn't involve "needs", merely freedoms. If people misuse weapons, of whatever type, they should be held accountable for their actions; the law-abiding should not simply be restricted from owning or carrying them outright.

785 P.2d 563, \*; 1990 Alas. App. LEXIS 5, \*\*

**STATE** of Alaska, Appellant, v. John E. **STRANGE**, and Rudy Kempen, Appellees. **STATE** of Alaska, Appellant, v. John E. **STRANGE**, Christopher A. Stading, and Troy Gonzales, Appellees

Nos. 1004, Court of Appeals Nos. A-2637, A-2638, A-2711, A-2783, A-2839

Court of Appeals of Alaska

785 P.2d 563; 1990 Alas. App. LEXIS 5

January 19, 1990

**PRIOR HISTORY:** [\*\*1] Appeal in File Nos. A-2637/2638 from the Superior Court of the State of Alaska, Fourth Judicial District, Fairbanks, Trial Court Nos. 4FA-S88-0639CR & 4FA-S88-0374CR, Jay Hodges, Judge. Appeal in File Nos. A-2711/2783/2839 from the Superior Court of the State of Alaska, Third Judicial District, Anchorage, Trial Court Nos. 3AN-S88-1686CR, 3AN-S88-3460CR & 3AN-S88-2661CR, Mark C. Rowland, Judge.

**CASE SUMMARY:**

**PROCEDURAL POSTURE:** The state sought review of orders from two Superior Courts (Alaska), which dismissed the charges against defendants for first-degree misconduct involving weapons, a class C felony, in violation of Alaska Stat. § 11.61.200(a)(3).

**OVERVIEW:** All defendants were indicted by a grand jury for first-degree misconduct involving weapons. Defendants possessed a "butterfly knife" which is also known as a "balisong knife." The trial courts concluded that a butterfly or balisong knife was not a prohibited switchblade or gravity knife and dismissed the charges against defendants. The court affirmed the decision of the trial courts. The court found that the applicable statutes were ambiguous, and given that criminal statutes were to be strictly construed against the government, the court concluded that butterfly knives and balisong knives were not gravity knives and not a prohibited weapon. The court based its decision on the fact that butterfly knives were not switchblade knives nor were they sprung by a downward snap of the wrist. In fact, the court found that a number of motions, albeit quickly performed, were necessary to bring the knives to bear. These knives also do not fit the definition of automatic or semi-automatic. Finally, these knives did not appear to fit the common understanding of the term gravity knife or the way that the term was used in common usage.

**OUTCOME:** The court affirmed the judgments of the trial court that dismissed the charges against defendants for first-degree misconduct involving weapons.

**CORE TERMS:** knives, knife, gravity, butterfly, switchblade, blade, balisong, weapon, switchblade knife, concealed, handle, evidentiary hearings, sheath, button, wrist, automatically, dictionary, paralleled, videotape, spring, latch, common usage, force of gravity, centrifugal force, expert testimony, pocketknife, downward, felony, seized, locked

**LEXISNEXIS(R) HEADNOTES**

Criminal Law & Procedure > Criminal Offenses > Weapons > Possession > Elements

**HN1** Alaska Stat. § 11.61.200(a)(3) makes it a felony to possess a "prohibited weapon." "Prohibited weapon" is defined in Alaska Stat. § 11.61.200(e)(1)(D) to include a "switchblade or gravity knife." Neither "switchblade" nor "gravity knife" is specifically defined in the statutes.

Criminal Law & Procedure > Criminal Offenses > Weapons > Possession > General Overview

**HN2** The term "gravity knife" is a readily ascertainable and consistent definition. As commonly understood, a gravity knife is one in which the blade opens, falls into place, or is ejected into position by the force of gravity or by centrifugal force. Furthermore, in the Alaska Statute on prohibited weapons, the term "gravity knife" is used in conjunction with "switchblade knife." Alaska Stat. § 11.61.200(e)(1)(D).

Governments > Legislation > Interpretation

**HN3** Criminal statutes should be strictly construed against the government.

**COUNSEL:** Robert D. Bacon, Assistant Attorney General, Office of Special Prosecutions and Appeals, Anchorage, and Grace Berg Schaible and Douglas B. Baily, Attorneys General, Juneau, for Appellants.

Marcia E. Holland, Assistant Public Defender, Fairbanks, and John B. Salem, Acting Public Defender, Anchorage, for Appellees Strange and Kempen.

Nancy J. Nolan, Assistant Public Defender, and John B. Salemi, Public Defender, Anchorage, for Appellees Strange, Stading, and Gonzales.

**JUDGES:** Bryner, Chief Judge, Coats and Singleton, Judges.

**OPINION BY:** SINGLETON

## OPINION

[\*564] Each of these defendants was indicted by a grand jury for first-degree misconduct involving weapons, a class C felony, in violation of AS 11.61.200(a)(3). **HN1** This statute makes it a felony to possess a "prohibited weapon." "Prohibited weapon" **[\*\*2]** is defined in AS 11.61.200(e)(1)(D) to include a "switchblade or gravity knife." Neither "switchblade" nor "gravity knife" is specifically defined in the statutes. See *State v. Weaver*, 736 P.2d 781, 782 (Alaska App. 1987). Each of these defendants possessed a "butterfly knife" which is also known as a "balisong knife." The sole question presented by these appeals is whether a butterfly or balisong knife is a prohibited switchblade or gravity knife.

Two evidentiary hearings were held: the first, in Fairbanks before Judge Jay Hodges involved John E. Strange and Rudy Kempen; the second, in Anchorage before Judge Mark C. Rowland involved Strange, again, Christopher A. Stading, and Troy Gonzales. Judge Hodges and Judge Rowland independently determined that a butterfly knife is not a prohibited weapon and therefore dismissed the charges against the defendants and the state appeals. We affirm.

Because neither gravity knife nor switchblade knife are defined in Alaska statutes, we must look to general usage for their meaning. AS 01.10.040. In determining the meaning of words in common usage, we generally look to the dictionary. See *Walker v. State*, 742 P.2d 790,

791 (Alaska App. 1987). **[\*\*3]** The dictionary defines a switchblade knife or switchblade "as a pocketknife having the blade spring-operated so that pressure on a release catch causes it to fly open." *Webster's Third New International Dictionary of the English Language Unabridged*, 2314 (1966) (hereinafter *Webster's*). The butterfly or balisong knives which were seized in this case are identical to those described in *People v. Quattrone*, 211 Cal. App. 3d 1389, 260 Cal. Rptr. 44, 45 (Cal. App. 1 Dist. 1989) as follows:

The butterfly knife sold by defendant has a fixed blade over two inches long. When not in use, a two-part handle is folded around the blade as a sheath and is secured by a latch at the base of the knife. To open, the latch is released, allowing the two halves of the sheath to swing down on pivots to form a handle exposing the blade. The handle may be **[\*565]** secured manually or closed with the latch.

The knives introduced in evidence and demonstrated in the videotapes prepared at the evidentiary hearing satisfy this definition. It is not seriously contended that the butterfly or balisong knives are switchblade knives as we have defined that term. Rather, the contention is that they are gravity knives. In *Weaver*, we **[\*\*4]** addressed the definition of gravity knives. We said:

*HN2* The term [gravity knife] has a readily ascertainable and consistent definition. As commonly understood, a gravity knife is one in which the blade opens, falls into place, or is ejected into position by the force of gravity or by centrifugal force . . . .

Furthermore, in the Alaska Statute on prohibited weapons, the term "gravity knife" is used in conjunction with "switchblade knife." AS 11.61.200(e)(1)(D). The ordinary person is therefore put on notice that a "gravity knife" must be similar to a switchblade in operating automatically or semi-automatically. The pertinent characteristics which a switchblade and a gravity knife have in common are that they are easily concealed and quickly brought to bear. These characteristics are indicative of knives which are used as weapons rather than tools. Some utility knives are quickly brought to bear, such as a fishing knife or hunting knife in a sheath, but are not easily concealed. Indeed, it is only when these utility knives are concealed that their possession is unlawful. AS 11.61.220(a)(1). An ordinary pocket knife may be concealed upon the person. AS 11.61.220(a)(1). However, an ordinary **[\*\*5]** pocketknife is incapable of being quickly brought to bear.

*Weaver*, 736 P.2d at 782-83 (footnote omitted).

The two evidentiary hearings produced essentially the same evidence. At the first hearing in Fairbanks, the defendants called Wayne Ross, a local attorney, as a weapons expert to testify that the terms switchblade and gravity knife have a commonly accepted meaning in the weapons trade and that balisong or butterfly knives do not fall within either meaning. He testified that gravity knives, like switchblade knives are released by a button, but differ from switchblade knives in that they do not have a spring. Ross testified that gravity knives were developed by German paratroopers in World War II as a utility knife to cut parachute shrouds.

The state called Alaska State Trooper Jeffrey Hall at the first hearing in Fairbanks to show how easily butterfly knives could be brought to bear. He testified that butterfly knives were primarily used in the martial arts and in combat. He also testified that a butterfly knife was not within his understanding of the term switchblade knife or gravity knife. The defense also

put on a number of witnesses to testify that butterfly knives were **[\*\*6]** readily available in commercial stores in Anchorage and Fairbanks.

Testimony before Judge Rowland at the second hearing in Anchorage paralleled testimony before Judge Hodges with one exception. Trooper Hall who had been called as a prosecution witness in Fairbanks was called as a defense witness in Anchorage. The state introduced a videotape of Alaska State Trooper John Johnston demonstrating the use of three of the butterfly knives which had been seized from defendant Strange. Trooper Johnston showed that the knives could be easily concealed on the body and could quickly be brought to bear by a series of wrist movements utilizing centrifugal or inertial force. He indicated that he had only had about ten minutes experience with butterfly knives before making the videotape. He was able to bring the knives to bear quickly even though he took them as he found them without oiling them or working them to make them loose and easier to open.

Trooper Johnston's demonstration paralleled one given in *Quattrone*, where the officer was also able to rapidly open and lock the butterfly knife with one hand using three wrist movements. In that case, the officer testified that he needed only half **[\*\*7]** an hour to perfect his technique. *Quattrone*, 260 Cal. Rptr. at 45.

**[\*566]** A number of courts have considered whether butterfly or balisong knives qualify as prohibited switchblade or gravity knives. See, e.g., *Taylor v. United States*, 848 F.2d 715 (6th Cir. 1988); *Precise Imports Corporation v. Kelly*, 378 F.2d 1014 (2d Cir. 1967), cert. denied, 389 U.S. 973, 19 L. Ed. 2d 465, 88 S. Ct. 472 (1967); *Quattrone*, 211 Cal. App. 3d 1389, 260 Cal. Rptr. 44; *People v. Dolson*, 142 Misc. 2d 779, 538 N.Y.S.2d 393 (N.Y. Co. Ct. 1989); *People v. Mott*, 137 Misc. 2d 757, 522 N.Y.S.2d 429 (N.Y. Co. Ct. 1987). The courts, which disagree on whether butterfly knives are switchblades or gravity knives, have not been particularly helpful because of differences in statutory language. In *Quattrone*, the court dealt with California Penal Code § 653k which "defines an illegal switchblade as 'a spring-blade knife, snap-blade knife, gravity knife or any other similar type knife, [having a blade or blades] which can be released automatically . . . by any type of mechanism whatsoever.'" *Quattrone*, 260 Cal. Rptr. at 46. In *Taylor*, the court dealt with the Switchblade Knife Act which defines a switchblade knife at 15 U.S.C. § 1241(b) as follows:

The term "switchblade knife" means **[\*\*8]** any knife having a blade which opens automatically --

(1) by hand pressure applied to a button or other device in the handle of the knife, or

(2) by operation of inertia, gravity or both.

*Taylor*, 848 F.2d at 716 n.1. Both of these definitions are broader than the definitions in our statute which simply uses the terms without further defining them. *Taylor* is also distinguishable because the court there relied heavily on an administrative interpretation of the Act in determining that balisong or butterfly knives were covered.

The New York cases dealt with New York Penal Code § 265.00(5) which stated that:

"Gravity knife" means any knife which has a blade which is released from the handle or sheath thereof by the force of gravity or the application of centrifugal force which, when released, is locked in place by means of a button, spring, lever or other device.

The New York cases held balisong or butterfly knives not to be gravity knives because they were not locked in place by means of a button, spring, lever or other device when released. *Dolson*, 538 N.Y.S.2d 393; *Mott*, 137 Misc. 2d 757, 522 N.Y.S.2d 429. Our statute does not

have similar language.

Having carefully reviewed the statutes and **[\*\*9]** the knives introduced into evidence and bearing in mind that <sup>HN3</sup> criminal statutes should be strictly construed against the government, see *State v. Andrews*, 707 P.2d 900, 907 (Alaska App. 1985), *aff'd*, 723 P.2d 85 (Alaska 1986), we conclude that butterfly knives and balisong knives are not gravity knives.

A number of considerations lead us to this conclusion. First, butterfly knives are not "switchblade knives in which the blade is sprung by a downward snap of the wrist." *Webster's* at 993. As we have seen, these knives do not meet the definition of switchblade knives. Nor are they sprung by a downward snap of the wrist. In fact, a number of motions, albeit quickly performed, are necessary to bring the knives to bear. These knives also do not fit the definition of automatic or semi-automatic. Finally, these knives do not appear to fit the common understanding of the term gravity knife or the way that the term is used in common usage. See, e.g., *Quattrone*, 260 Cal. Rptr. at 47-48. It is instructive that the expert testimony in *Quattrone* apparently paralleled the expert testimony given at the two evidentiary hearings in this case regarding the meaning of the term "gravity **[\*\*10]** knife."

The judgment of the superior court is AFFIRMED.







Source: **Legal > / . . . / > AK State Cases, Combined** 

Terms: **name(state and strange)** (Edit Search | Suggest Terms for My Search)

View: Full

Date/Time: Friday, December 17, 2010 - 8:19 PM EST

\* Signal Legend:

-  - Warning: Negative treatment is indicated
  -  - Questioned: Validity questioned by citing refs
  -  - Caution: Possible negative treatment
  -  - Positive treatment is indicated
  -  - Citing Refs. With Analysis Available
  -  - Citation information available
- \* Click on any *Shepard's* signal to *Shepardize*® that case.

In

About LexisNexis | Privacy Policy | Terms & Conditions | Contact Us  
Copyright © 2010 LexisNexis, a division of Reed Elsevier Inc. All rights reserved.

**HOUSE BILL NO. 55**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES NEUMAN AND LYNN, Costello, Thompson, Peggy Wilson, Millett

Introduced: 1/18/11  
Referred: Judiciary

1/17/12  
Sent email to  
Sponsor re: intent

**A BILL**

**FOR AN ACT ENTITLED**

1 "An Act adding definitions of 'gravity knife' and 'switchblade' to the criminal law."

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 \* **Section 1.** *Criminal Law, Classification of Offenses, Use of deadly force...*  
AS 11.81.900(b) is amended by adding new paragraphs to read:

4 (65) "gravity knife" means any knife that has a blade that opens or  
5 releases a blade from its handle or sheath by the force of gravity or by the application  
6 of centrifugal force; "gravity knife" does not include a knife that has a spring, detent,  
7 or other mechanism designed to create a bias toward closure that requires a person to  
8 apply exertion to the blade by hand, wrist, or arm to overcome the bias toward closure  
9 and open or release the blade;

10 (66) "switchblade" means any knife that has a blade that folds, closes,  
11 or retracts into the handle or sheath that opens automatically by pressure applied to a  
12 button or other device located on the handle or sheath; "switchblade" does not include  
13 a knife that has a spring, detent, or other mechanism designed to create a bias toward  
14 closure that requires exertion applied to the blade by hand, wrist, or arm to overcome  
15 the bias toward closure and open the blade.

## Melanie Lesh

---

**From:** Rex Shattuck  
**Sent:** Tuesday, January 17, 2012 3:06 PM  
**To:** Melanie Lesh  
**Subject:** RE: HB 55

Melanie,

We will be carrying it in this office. Presently we have a request to consider additional language from a national organization, once we work that out we will contact you.

Thank you

Rex

---

**From:** Melanie Lesh  
**Sent:** Tuesday, January 17, 2012 2:39 PM  
**To:** Rex Shattuck  
**Cc:** Beth Schneider  
**Subject:** HB 55

Dear Team Neuman,

Regarding HB 55, 'Adding definitions of 'gravity knife' and 'switchblade' to the criminal law'

Status: House Judiciary Committee

I notice that there is no hearing request memo on file for this bill and wonder if you can inform me whether you wish to have the bill heard in House Judiciary Committee this session. I also note that Rep Lynn is a co-prime sponsor, so would like to know if possible his office is lead on the bill.

Thanks for your help and direction!

*Melanie*

Melanie Lesh  
House Judiciary Committee Aide  
Office of Representative Carl Gatto, House Judiciary Committee Chair  
Capitol Building, Room 118  
(907)465-4990  
[Melanie.Lesh@legis.state.ak.us](mailto:Melanie.Lesh@legis.state.ak.us)

## Melanie Lesh

---

**From:** Beth Schneider  
**Sent:** Tuesday, January 17, 2012 5:02 PM  
**To:** Melanie Lesh  
**Subject:** RE: HB 55

YAY! Could you let me know if you don't receive it by the end of the week?

---

**From:** Melanie Lesh  
**Sent:** Tuesday, January 17, 2012 5:01 PM  
**To:** Beth Schneider  
**Subject:** RE: HB 55

Thanks Beth,  
I just had a very nice phone call from your boss, and I told him I'd let Carl know the backup would be forthcoming!  
Melanie

---

**From:** Beth Schneider  
**Sent:** Tuesday, January 17, 2012 4:55 PM  
**To:** Melanie Lesh  
**Subject:** RE: HB 55

Hi Melanie,

I just spoke with Rep Neuman and he would like to have this bill heard in H Judiciary this session. He stated that Rex should be getting you a request within the next day or two.

Beth

---

**From:** Melanie Lesh  
**Sent:** Tuesday, January 17, 2012 2:39 PM  
**To:** Rex Shattuck  
**Cc:** Beth Schneider  
**Subject:** HB 55

Dear Team Neuman,  
Regarding HB 55, 'Adding definitions of 'gravity knife' and 'switchblade' to the criminal law'  
Status: House Judiciary Committee  
I notice that there is no hearing request memo on file for this bill and wonder if you can inform me whether you wish to have the bill heard in House Judiciary Committee this session. I also note that Rep Lynn is a co-prime sponsor, so would like to know if possible his office is lead on the bill.  
Thanks for your help and direction!

*Melanie*

Melanie Lesh  
House Judiciary Committee Aide  
Office of Representative Carl Gatto, House Judiciary Committee Chair  
Capitol Building, Room 118  
(907)465-4990  
[Melanie.Lesh@legis.state.ak.us](mailto:Melanie.Lesh@legis.state.ak.us)

# ALASKA STATE LEGISLATURE

**Member:**

House Finance Committee  
Legislative Budget & Audit Committee

**Chair:**

House Budget Sub Committees on:  
- Department of Administration  
- Department of Labor and Workforce  
Development



**Session:**

Alaska State Capitol  
Juneau, AK 99801-1182  
Phone: (907) 465-2679  
Fax: (907) 465-4822  
Toll Free (800) 505-2678

**Interim:**

600 E. Railroad Ave  
Wasilla, AK 99654  
Phone: (907) 376-2679  
Fax: (907) 373-4745

## ***Representative Mark Neuman***

Rep.Mark.Neuman@legis.state.ak.us

Representative Carl Gatto

I would like the following individual to be able to call in for the hearing on Wednesday, February 15, 2012. I hope to have an additional name and will keep you updated.

1) Todd Rathner of Knife Rights.

Please provide us the number you would like him to call.

Sincerely,

A handwritten signature in cursive script that reads "Mark Neuman".

Representative Mark Neuman



**HOUSE BILL NO. 55**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SEVENTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES NEUMAN AND LYNN, Costello, Thompson, Peggy Wilson, Millett

Introduced: 1/18/11

Referred: Judiciary

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act adding definitions of 'gravity knife' and 'switchblade' to the criminal law."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 \* **Section 1.** AS 11.81.900(b) is amended by adding new paragraphs to read:

4 (65) "gravity knife" means any knife that has a blade that opens or  
5 releases a blade from its handle or sheath by the force of gravity or by the application  
6 of centrifugal force; "gravity knife" does not include a knife that has a spring, detent,  
7 or other mechanism designed to create a bias toward closure that requires a person to  
8 apply exertion to the blade by hand, wrist, or arm to overcome the bias toward closure  
9 and open or release the blade;

10 (66) "switchblade" means any knife that has a blade that folds, closes,  
11 or retracts into the handle or sheath that opens automatically by pressure applied to a  
12 button or other device located on the handle or sheath; "switchblade" does not include  
13 a knife that has a spring, detent, or other mechanism designed to create a bias toward  
14 closure that requires exertion applied to the blade by hand, wrist, or arm to overcome  
15 the bias toward closure and open the blade.

OK,

2/15/12  
moved

called  
in  
2/15/12

27-LS0298VA.1  
Gardner  
2/2/12

**AMENDMENT**

OFFERED IN THE HOUSE  
TO: HB 55

BY REPRESENTATIVE NEUMAN

1 Page 1, line 1, following "law":

2 Insert "; and relating to reserving the authority to regulate knives to the state with  
3 limited exceptions for municipalities to regulate knives."  
4

5 Page 1, following line 15:

6 Insert new bill sections to read:

7 \*\* Sec. 2. AS 29.10.200(40) is amended to read:

8 (40) AS 29.35.145 (regulation of firearms **and knives**):

9 \* Sec. 3. AS 29.35.145(a) is amended to read:

10 (a) The authority to regulate firearms **and knives** is reserved to the state, and,  
11 except as specifically provided by statute, a municipality may not enact or enforce an  
12 ordinance regulating the possession, ownership, sale, transfer, use, carrying,  
13 transportation, licensing, taxation, or registration of firearms **or knives**.

14 \* Sec. 4. AS 29.35.145(b) is amended to read:

15 (b) Municipalities may enact and enforce ordinances

16 (1) that are identical to state law and that have the same penalty as  
17 provided for by state law;

18 (2) restricting the discharge of firearms in any portion of their  
19 respective jurisdictions where there is a reasonable likelihood that people, domestic  
20 animals, or property will be jeopardized; ordinances enacted or enforced under this  
21 paragraph may not abridge the right of the individual guaranteed by art. I, sec. 19,  
22 Constitution of the State of Alaska, to bear arms in defense of self or others;

23 (3) restricting the areas in their respective jurisdictions in which

1 firearms or knives may be sold; a business selling firearms or knives may not be  
2 treated more restrictively than other businesses located within the same zone; and

3 (4) prohibiting the possession of firearms or knives in the restricted  
4 access area of municipal government buildings; the municipal assembly shall post  
5 notice of the prohibition against possession of firearms or knives at each entrance to  
6 the restricted access area."

# FISCAL NOTE

**STATE OF ALASKA**  
**2012 LEGISLATIVE SESSION**

Bill Version HB 55  
 Fiscal Note Number \_\_\_\_\_  
 () Publish Date \_\_\_\_\_

Identifier (file name) HB055-LAW-CRIM-02-10-12 Dept. Affected Law  
 Title An Act adding definitions of 'gravity knife' and 'switchblade' to the criminal law Appropriation Criminal  
 Allocation Criminal Justice Litigation  
 Sponsor REPRESENTATIVE (s) NEUMAN, LYNN  
 Requester (H) Judiciary OMB Component Number 2202

**Expenditures/Revenues** (Thousands of Dollars)

Note: Amounts do not include inflation unless otherwise noted below.

	FY13 Appropriation Requested	Included in Governor's FY13 Request	Out-Year Cost Estimates				
			FY14	FY15	FY16	FY17	FY18
<b>OPERATING EXPENDITURES</b>	<b>FY13</b>	<b>FY13</b>	<b>FY14</b>	<b>FY15</b>	<b>FY16</b>	<b>FY17</b>	<b>FY18</b>
Personal Services	0.0	0.0	0.0	0.0	0.0	0.0	0.0
Travel							
Services							
Commodities							
Capital Outlay							
Grants, Benefits							
Miscellaneous							
<b>TOTAL OPERATING</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**FUND SOURCE** (Thousands of Dollars)

1002	Federal Receipts							
1003	GF Match							
1004	GF							
1005	GF/Prgm (DGF)							
1037	GF/MH (UGF)							
1178	temp code (UGF)							
<b>TOTAL</b>		<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>	<b>0.0</b>

**POSITIONS**

Full-time							
Part-time							
Temporary							

**CHANGE IN REVENUES**

--	--	--	--	--	--	--	--

Estimated **SUPPLEMENTAL (FY12) operating costs** \_\_\_\_\_ (separate supplemental appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

Estimated **CAPITAL (FY13) costs** \_\_\_\_\_ (separate capital appropriation required)  
 (discuss reasons and fund source(s) in analysis section)

**Why this fiscal note differs from previous version (if initial version, please note as such)**

Not applicable, initial version.

Prepared by Eileen Donahue, Division Operations Manager  
 Division Administrative Services  
 Approved by Michael C. Geraghty, Attorney General  
Department of Law

Phone 465-5427  
 Date/Time 2/10/12 4:30 PM  
 Date 2/10/2012