

HB

55

<TARGET><BILL>HB 55</BILL><SUBJECT>HB
55</SUBJECT><COMM>SJUD27</COMM></TARGET>

ALASKA STATE LEGISLATURE

Member:
House Finance Committee
Legislative Budget & Audit Committee



Chair:
House Budget Sub Committees on:
- Department of Administration
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Development

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Representative Mark Neuman

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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.

The House Judiciary Committee added preemption language to the bill reserving the authority to regulate knives to the state with limited exceptions. This was done to preclude an individual who carried a knife in one community from being unknowingly in violation when traveling to another jurisdiction.

I would appreciate your support.

27-LS0298M

FISCAL NOTE

STATE OF ALASKA
2012 LEGISLATIVE SESSION

Bill Version CSHB 55(JUD)
 Fiscal Note Number 1
 (H) Publish Date 2/17/12

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	FY13	FY14	FY15	FY16	FY17
OPERATING EXPENDITURES								
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								
TOTAL OPERATING	0.0	0.0	0.0	0.0	0.0	0.0	0.0	0.0

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)							
TOTAL		0.0	0.0	0.0	0.0	0.0	0.0	0.0

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 Phone 465-5427
 Division Administrative Services Date/Time 2/10/12 4:30 PM
 Approved by Michael C. Geraghty, Attorney General Date 2/10/2012
Department of Law

FISCAL NOTE #1

STATE OF ALASKA
2012 LEGISLATIVE SESSION

BILL NO. CSHB 55(JUD)

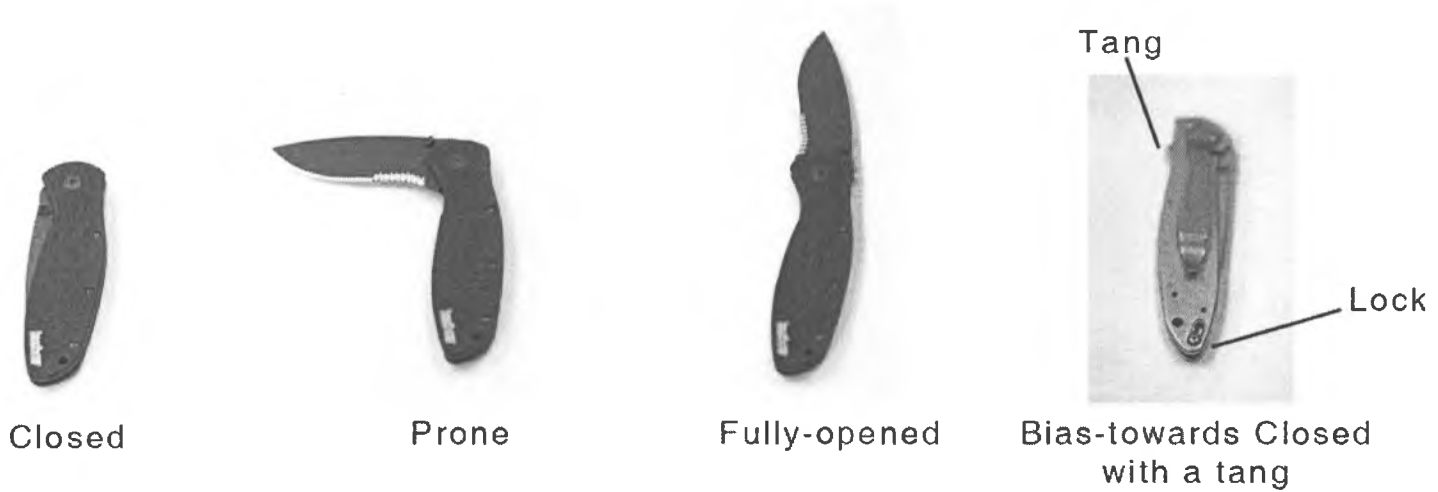
Analysis

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

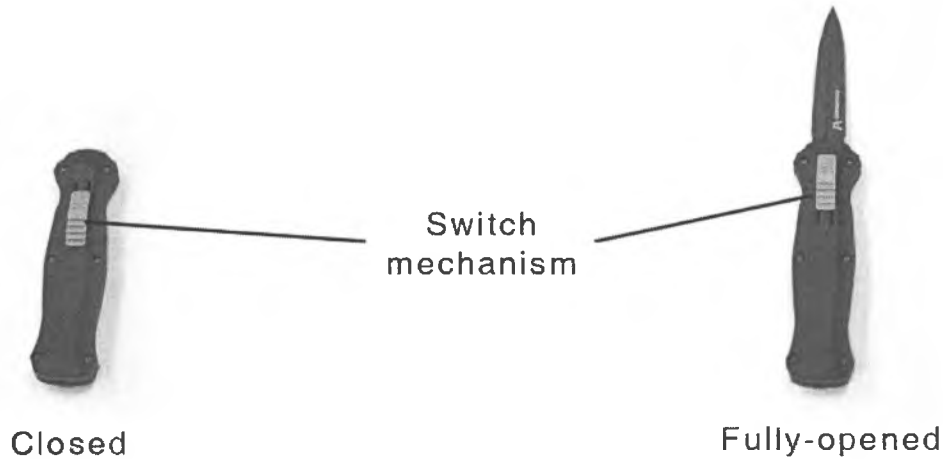
Fiscal impact to the Department is zero.

HB55 - Definitions: Gravity Knife & Switchblade

Examples of bias-towards-closure knives:



Example of a switchblade:





Congressional Sportsmen's Foundation
States Program



2012 Issue Briefs

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@sportsmenslink.org or Bethany@sportsmenlink.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

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 ^{HN3} 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)

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

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-  - Citing Refs. With Analysis Available
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ALASKA STATE LEGISLATURE

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Development

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Representative Mark Neuman

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

March 15, 2012

Dear Senator French

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. My office will be happy to assist you in any way we can. I am presently contacting other members of this body to answer any questions that they may have. Please feel free to contact us with any questions you have.

Attached is a committee package.

Included are the following:

- Carrier of the Bill (Rep Mark Neuman)
- Letter of Request
- Current version of the bill.
- Sponsor statement.
- 2012 Fiscal Notes

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 cursive script that reads "Mark Neuman".

Representative Mark Neuman