

BILL ANALYSIS

Senate Research Center
81R33683 GCB-F

C.S.H.B. 4456
By: Driver (Deuell)
Criminal Justice
5/20/2009
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

The Texas Penal Code defines an illegal switchblade as any knife that has a blade that folds, closes, or retracts into the handle or sheath, and that opens automatically with the press of a button and the assistance of a spring or centrifugal force. This definition has been in statute since 1974.

In recent years, knife manufacturers have begun production of knives designed to be opened by one handed operation. They are called "one handed openers" or "assisted openers." Used frequently by emergency response personnel, hunters, and fishermen, these knives require the user to exert force on the blade of the knife to overcome a mechanism holding the blade closed, typically using their thumb to push against a small post or indentation on the knife's blade.

Several states have recently passed legislation amending their definition of switchblade knife to exclude these one-handed openers and clarify that these knives are legal. Hunters and fishermen from other states often carry these knives with them when they travel to Texas, and many Texas residents currently carry such knives, as they are sold at all major retailers around the state. A lack of consistent court rulings in the past on the definition of "illegal knife," and a lack of specificity in the Penal Code definitions, has resulted in otherwise law abiding citizens running the risk of prosecution for having an "illegal knife" if these types of knives are misconstrued to be switchblades.

C.S.H.B. 4456 amends Section 46.01 of the Penal Code by exempting one handed openers and assisted openers from the definition of switchblade knife.

RULEMAKING AUTHORITY

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 46.01(11), Penal Code, to redefine "switchblade knife" to provide that the term does not include a knife that has a spring, detent, or other mechanism designed to create a bias toward closure and that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure and open the knife. Makes nonsubstantive changes.

SECTION 2. Makes application of this Act prospective.

SECTION 3. Effective date: September 1, 2009.