

BILL ANALYSIS

C.S.H.B. 4456
By: Driver
Criminal Jurisprudence
Committee Report (Substituted)

BACKGROUND AND PURPOSE

The Penal Code currently 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 dates back to 1974. In recent years, knife manufacturers have begun producing knives designed to be opened by one-handed operation. They are called "one-handed openers" or "assisted openers." A favorite of 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 the person's thumb to push against a small post or indentation on the knife's blade. Several states have recently passed legislation to amend the definition of switchblade knife to exclude these one-handed openers and clarify that these knives are legal. Many Texas residents already carry such knives, which are sold at major retailers across the state. Hunters and fishermen from other states also carry these knives as they travel to Texas. A lack of consistent court rulings on the definition of "illegal knife" and a lack of specificity in the Penal Code definition result in these 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 exempts one-handed openers and assisted openers from the definition of "switchblade knife," for purposes of certain offenses relating to prohibited weapons by specifying 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 or blade mechanism by hand, wrist, or arm to overcome the bias toward closure and open the knife.

RULEMAKING AUTHORITY

It is the committee's opinion that this bill does not expressly grant any additional rulemaking authority to a state officer, department, agency, or institution.

ANALYSIS

C.S.H.B. 4456 amends the Penal Code to specify that the definition of "switchblade knife," for purposes of certain offenses relating to prohibited weapons, 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 or blade mechanism by hand, wrist, or arm to overcome the bias toward closure and open the knife.

EFFECTIVE DATE

September 1, 2009.

COMPARISON OF ORIGINAL AND SUBSTITUTE

C.S.H.B. 4456 differs from the original in nonsubstantive ways by using language reflective of certain drafting conventions.