

Re: Input to the Texas Senate Agriculture, Rural Affairs and Homeland Security Committee Hearing, Monday, April 7, 2014

Charged with: Study and make recommendations on removing barriers to Second Amendment Rights, including but not limited to open carry legislation. Consider other state laws related to open carry.

Dear Chairman Estes and Members of the Committee,

Knife Rights is a national grassroots organization representing America's millions of knife owners, including the millions of Texas knife owners, many of whom are our paid members. I would like to point out to the Committee that the Second Amendment does not say "firearms," it says "arms." Knives were common arms when that was written and are still so today. While millions of Texans carry and use a knife as a tool daily, they occasionally also must use their knife as an arm in defense of themselves or someone else.

Last year Knife Rights supported a change in Texas law that repealed the antiquated ban on switchblade (automatic) knives in the State. That represents a start, but there are still significant irrational and unconstitutional restrictions on knives in Texas law that should be repealed.

In the past four years, Knife Rights has passed 13 pro-knife bills in 11 states, including 7 repeals of restrictions on particular types of knives, including in Texas, and 7 knife law preemption bills. In not one instance has there been any adverse effects from passage of these laws.

It is unfathomable that Texas has some of the more restrictive knife laws in the country. It is time to change that and allow Texas knife owners the freedom they are entitled to under both the U.S. and Texas constitution.

Texas should enact Knife Law Preemption in order that its citizens are not subject to a patchwork of local laws that only serve to entrap unwary travelers. Article 1, Section 23 of the Texas Constitution gives to the citizens the right to keep and bear arms and the state the authority to regulate arms within a very narrow scope, *"Every citizen shall have the right to keep and bear arms in the lawful defense of himself or the State; but the Legislature shall have power, by law, to regulate the wearing of arms, with a view to prevent crime."*

Laws that affect ALL of the people of the state should be enacted at the state level and not left to the whims of local jurisdictions. Constitutionally protected freedoms cannot be allowed to be abridged by local jurisdictions. If an electrician in El Paso goes to do a job in San Antonio with his folding lockback pocket knife, they should have the peace of mind knowing that the knife they use daily at work is legal along their entire drive across the state and where they are working in a different city. This just makes plain good sense.

Some jurisdictions have laws on the length of a knife, some have laws about how it locks open (but a fixed blade knife that is otherwise identical is fine), some have laws that we can't even interpret. For instance, there are laws banning dirks, daggers, and stilettos, but which remain undefined in the codes and with varied judicial interpretations. In any case, there is not a single shred of evidence that supports any restrictions on knives as an effective means to mitigate criminal activities.

None of this makes any sense. A citizen has the right to know the law will be consistent across the state. Our law enforcement officers should also have consistency in the enforcement of laws governing knives.

It is critical to understand that according to every law enforcement officer we have spoken with, the overwhelming majority of violent crimes committed with knives are committed with a kitchen knife. That should provide some important perspective on the issue.

It isn't the inanimate object, what it looks like, how big or small it is, that is the problem, it is the individual that wields the tool for criminal purposes that is the problem and which should be, and is, subject to criminal sanctions.

Making any particular type of knife *per se* illegal has no effect on criminal activity and only serves to adversely impact the rights of law-abiding citizens.

And, that brings us back to Texas state laws that do inexplicably, irrationally and unconstitutionally restrict certain types of knives.

Texas law states:

From Title 10, Chapter 46.01

(6)"Illegal knife" means a:

- (A)knife with a blade over five and one-half inches;
- (B)hand instrument designed to cut or stab another by being thrown;
- (C)dagger, including but not limited to a dirk, stiletto, and poniard;
- (D)bowie knife;
- (E)sword; or
- (F)spear.

(7) "knife means any bladed hand instrument that is capable of inflicting serious bodily injury or death by cutting or stabbing a person with the instrument...

Sec. 46.02. UNLAWFUL CARRYING WEAPONS. (a) A person commits an offense if the person intentionally, knowingly, or recklessly carries on or about his or her person a handgun, illegal knife, or club if the person is not:

- (1)on the person's own premises or premises under the person's control; or
- (2)inside of or directly en route to a motor vehicle or watercraft that is owned by the person or under the person's control.

Sec. 46.15. NONAPPLICABILITY includes a variety of exceptions to 46.02 for some specific activities, many of which exceptions are potentially subject to adverse interpretations or abuse by law enforcement or prosecutors. These exceptions themselves, without preemption, also do not hold in those jurisdictions that do not honor the state statutes, adding to the traps for the unwary citizen.

Just last year, the first ever detailed independent scholarly analysis of knives and the Second Amendment was published in the University of Michigan Journal of Law Reform (vol. 47, pages 167-215). Authored by noted Second Amendment scholars Dave Kopel, Clayton Cramer and Joe Olson, the paper concludes that, "Prohibitions on carrying knives in general, or of particular knives, are unconstitutional."

All restrictions on possession and carry of knives under Texas law should be repealed. The restrictions are unconstitutional on their face and there is no evidence whatsoever that the restrictions "*prevent crime*," to any meaningful degree, the only constitutional basis upon which any restrictions on arms can be allowed in Texas.

While we have examined the existing Texas statutes with an eye toward providing you with appropriate information for this hearing, we expect to develop bill language to remedy the statutes in time to be introduced for the 2015 session.

Texas is a state that prides itself on freedom for its citizens. The current knife laws in Texas do not reflect that commitment to freedom. It is time for Texas to live up to its reputation for freedom and remove all restrictions on knife possession and carry.

Respectfully submitted,

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