

Explanation of Amendment 1447

We have received numerous requests to explain how Amendment 1447 would solve the problem with Customs & Border Protection's proposed revocations and rulemakings along with their novel interpretation of what a switchblade is. We have laid out the reasoning below. This just covers these particular issues. The new exception may also offer additional salutatory benefits to knife owners that we will examine at a later point.

There are two issues to be reviewed. First, the language in the amendment clearly covers virtually all non-automatic folding knife mechanisms, regardless of whether they have a spring assist or not, or whether they are designed to be opened with one hand or not. These style folders are biased toward closure as compared to a conventional switchblade in which the spring is constantly applying pressure on the blade when the blade is closed and thus it is biased toward opening, requiring only the release of the blade to open automatically.

Second is the question of how this applies to Customs and how it will regulate their actions vis-a-vis such knives and eliminating their most recent interpretation of the Federal Switchblade Act.

To fully understand the applicability of the amendment, it is necessary to understand its relationship to Title 19 of the Code of Federal Regulations, which is the regulation that describes those duties delegated to several government agencies, including the United States Customs and Border Protection Agency.

The applicable text is codified at 19 C.F.R. § 12.97, and directly concerns switchblade knives and makes their importation illegal. However, the drafters of Section 12.97 created an exclusion that permits the importation of certain types of knives that might otherwise be captured by the provision. These exceptions are codified in statute at 15 U.S.C. § 1244, and are deemed "exceptions" because the specific types of knives described do not fall under the purview of Section 12.97's restrictions. For these reasons, if Section 1244 is amended so as to incorporate the assisted-openers and one-hand openers, these knives will not be considered unlawful under the Switchblade Knife Act of 1958 (15 U.S.C. § 1241 et seq.), and consequently, their import into the United States will be permissible.

The revision to Section 1244 as included in the Amendment 1447 to the Homeland Security Appropriations Bill passed by the Senate will add a fifth exception:

(5) a knife that contains a spring, detent, or other mechanism designed to create a bias toward closure of the blade and that requires exertion applied to the blade by hand, wrist, or arm to overcome the bias toward closure to assist in opening the knife.

Background:

TITLE 19--CUSTOMS DUTIES

CHAPTER I--BUREAU OF CUSTOMS AND BORDER PROTECTION, DEPARTMENT OF
HOMELAND SECURITY; DEPARTMENT OF THE TREASURY

PART 12 SPECIAL CLASSES OF MERCHANDISE--Table of Contents

Sec. 12.97 Importations contrary to law.

Importations of switchblade knives, except as permitted by 15 U.S.C. 1244, are importations contrary to law and are subject to forfeiture under 19 U.S.C. 1595a(c).

[T.D. 90-50, 55 FR 28192, July 10, 1990]

TITLE 15 -- COMMERCE AND TRADE

CHAPTER 29 - MANUFACTURE, TRANSPORTATION, OR DISTRIBUTION OF SWITCHBLADE KNIVES

Sec. 1241. Definitions

As used in this chapter -

(a) The term "interstate commerce" means commerce between any State, Territory, possession of the United States, or the District of Columbia, and any place outside thereof.

(b) The term "switchblade knife" means 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.

[Pub. L. 85-623, Sec. 1, Aug. 12, 1958, 72 Stat. 562.]

Sec. 1242. Introduction, manufacture for introduction, transportation or distribution in interstate commerce; penalty

Whoever knowingly introduces, or manufactures for introduction, into interstate commerce, or transports or distributes in interstate commerce, any switchblade knife, shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

[Pub. L. 85-623, Sec. 2, Aug. 12, 1958, 72 Stat. 562.]

CROSS REFERENCES

Exceptions from application of section, see section 1244 of this title.

Sec. 1243. Manufacture, sale, or possession within specific jurisdictions; penalty

Whoever, within any Territory or possession of the United States, within Indian country (as defined in section 1151 of title 18), or within the special maritime and territorial jurisdiction of the United States (as defined in section 7 of title 18), manufactures, sells, or possesses any switchblade knife, shall be fined not more than \$2,000 or imprisoned not more than five years, or both.

[Pub. L. 85-623, Sec. 3, Aug. 12, 1958, 72 Stat. 562.]

CROSS REFERENCES

Exceptions from application of section, see section 1244 of this title.

Sec. 1244. Exceptions

Sections 1242 and 1243 of this title shall not apply to -

(1) any common carrier or contract carrier, with respect to any switchblade knife shipped, transported, or delivered for shipment in interstate commerce in the ordinary course of business;

(2) the manufacture, sale, transportation, distribution, possession, or introduction into interstate commerce, of switchblade knives pursuant to contract with the Armed Forces;

(3) the Armed Forces or any member or employee thereof acting in the performance of his duty; or

(4) the possession, and transportation upon his person, of any switchblade knife with a blade three inches or less in length by any individual who has only one arm.

[Pub. L. 85-623, Sec. 4, Aug. 12, 1958, 72 Stat. 562.]