



## STATE LAWS REGARDING GRAVITY AND SWITCHBLADE KNIVES

*By Conrad Imel*

Gravity and switchblade knives, which were originally popularized by classic movies such as *West Side Story* and *Rebel Without a Cause*, are considered illegal weapons in Colorado. Possessing such a weapon could result in a fine or jail time, or both. This *issue brief* provides an overview of Colorado law and legislative history concerning switchblades and gravity knives, as well as the laws in other states.

### Colorado Law

Colorado law defines a gravity knife as “any knife that has a blade released from the handle or sheath thereof by the force of gravity or the application of centrifugal force,” and a switchblade knife as “any knife, the blade of which opens automatically by hand pressure applied to a button, spring, or other device in its handle.”

***Prohibition on illegal weapons.*** State law prohibits knowingly possessing an illegal weapon, which includes gravity and switchblade knives.<sup>1</sup> Knowingly possessing an illegal weapon is a class 1 misdemeanor, punishable by 6 to 18 months imprisonment, a \$500 to \$5,000 fine, or both imprisonment and a fine.

***History of knife prohibition.*** Colorado law first prohibited possession of mechanical knives in 1951. House Bill 51-228 prohibited the sale,

offer of sale, display, use, possession, or carrying of any knife that has “the appearance of a pocket knife” when the blade “can be opened by the flick of a button, pressure on the handle, or other mechanical contrivance.” The crime was classified as a misdemeanor punishable by up to one year in the county jail, a maximum \$300 fine, or both.

This prohibition remained in place until a new law was enacted in 1971.<sup>2</sup> Under the 1971 law, gravity knives and switchblade knives were included in the definition of “illegal weapon,” and possession of an illegal weapon was classified as a class 1 misdemeanor. In 1979, the law was amended to include a definition of “dangerous weapons,” and create an analogous prohibition on possessing a dangerous weapon, a class 5 felony.<sup>3</sup> Gravity and switchblade knives have continued to be classified as “illegal weapons.”

### Laws in Other States

Twelve states prohibit the possession of gravity or switchblade knives: Colorado, Delaware, Hawaii, Illinois, Louisiana, Michigan, Minnesota, New Mexico, New York, Pennsylvania, Vermont, and Washington. Generally, in these states, possession is a misdemeanor, and there are exemptions for law

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<sup>1</sup>Section 18-12-102, C.R.S. Other illegal weapons are blackjacks, gas guns, and metallic knuckles.

<sup>2</sup>Current Section 18-12-102, C.R.S., was created as Section 40-12-102, C.R.S. (1971), and was repealed and reenacted in Title 18 in 1979.

<sup>3</sup>Dangerous weapons are firearm silencers, machine guns, short shotguns, short rifles, and ballistic knives.

enforcement or military personnel carrying out their duties.

The remaining 38 states do not prohibit possession of all gravity or switchblade knives, including 6 states that have repealed such a prohibition since 2013.<sup>4</sup> However, even where possession is permitted, there may be limitations on use, such as prohibitions on carrying, sale, or transfer. For example, in Virginia, possession of a switchblade knife is not prohibited; however, it is illegal to sell, barter, exhibit for sale or barter, give, or furnish such a knife to another person. It is also illegal to possess a switchblade knife with the intent to sell, barter, give, or furnish the knife.<sup>5</sup>

Additionally, many states that permit possession of gravity or switchblade knives prohibit minors or certain convicted offenders from possessing or carrying such knives. In New Hampshire, no knives are prohibited; however, it is a felony to possess a switchblade knife or other deadly weapon if you have been previously convicted of a felony in that or any other state, the District of Columbia, Puerto Rico, or any U.S. territory or possession.<sup>6</sup>

In some states, gravity knives or switchblades are considered deadly or dangerous weapons, so, while it may not be illegal to possess, if such a knife is used in a criminal act, it may result in different criminal charges or increased penalties. In Tennessee, it is legal to possess a switchblade knife, but to employ it during the commission of, attempt to commit, or escape from a dangerous offense is a class E felony with a maximum \$6,000 fine, which is twice the amount of a fine for using other dangerous weapons in such circumstances.<sup>7</sup>

Other states' laws include various restrictions on the possession or use of gravity

and switchblade knives. Laws for selected states are discussed below.

***New Jersey's lawful purpose requirement.*** New Jersey does not ban the possession of gravity or switchblade knives; however, the law requires that those who possess such knives must have an "explainable lawful purpose."<sup>8</sup> The law does not define what constitutes a lawful purpose.

***Prohibitions on carrying certain knives.*** Many states in which it is legal to possess a gravity knife or switchblade prohibit carrying such knives in certain situations, or require a permit to carry the knife in public. For example, in Mississippi, a person is prohibited from carrying a concealed switchblade, among other weapons.<sup>9</sup> Massachusetts does not prohibit possession of gravity or switchblade knives, but carrying either on one's person, or under one's control in a vehicle, is illegal.<sup>10</sup>

***Length of blade restrictions.*** Some states prohibit possession of knives with blades longer than a specified length, or permit the possession of all blade lengths, but limit carrying or use in other ways. Montana prohibits possession of switchblade knives that have a blade length of longer than 1½ inches.<sup>11</sup> In Iowa, a person cannot carry any concealed knife with a blade greater than 5 inches, with enhanced penalties if the blade is longer than 8 inches.<sup>12</sup> Finally, while California does not prohibit possession of switchblades, if the knife has a blade length greater than 2 inches, the owner may not possess the knife in a car that is in a public place, carry the knife, or sell, offer, give, loan, or transfer the knife.<sup>13</sup>

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<sup>4</sup>States that have recently repealed prohibitions on possession of gravity knives or switchblades are: Maine (2014), Nevada (2015), Oklahoma (2015), Tennessee (2014), Texas (2013), and Wisconsin (2016).

<sup>5</sup>Va. Code Ann. § 18.2-311.

<sup>6</sup>N.H. Rev. Stat. Ann. § 159:3.

<sup>7</sup>Tenn. Code Ann. § 39-17-1307 (d)(3)(B).

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<sup>8</sup>N.J. Rev. Stat. § 2C:39-3 (e).

<sup>9</sup>Miss. Code Ann. § 97-37-1 (1).

<sup>10</sup>Mass. Gen. Laws ch. 269, § 10 (b).

<sup>11</sup>Mont. Code Ann. § 45-8-331.

<sup>12</sup>Iowa Code § 724.4 (3).

<sup>13</sup>Cal. Penal Code § 21510.