



## Revising Virginia’s Knife Laws

### Delegate Lee Ware Introduced HB 1432

#### Overview

Existing knife laws in Virginia have been patched together through various legislation and amendments, creating an outdated and unclear legal construct that unnecessarily limits law-abiding citizen’s desire to carry an automatic knife for daily work and activities. While the Commonwealth’s knife laws indicate that ownership of any knife is legal, to best protect law-abiding Virginians who choose to carry their automatic knife/tool, there are two sections of the code that we believe need updating.

#### Problem 1: Prohibition of Concealed Carry for Daily Use Knives

Because of the Commonwealth’s prohibition on the possession of knives, law-abiding, well intentioned Virginians seeking to carry a knife for everyday work and activities – such as tradesmen, hunters, and campers – risk arrest simply by possessing a knife that is **legal** to own. According to the Code of Virginia Sec. 18.2-308, “any person [that] carries about his person, hidden from common observation...any dirk, bowie knife, switchblade knife, ballistic knife, machete, razor...” is violating the law and subject to a misdemeanor or felony charge, depending on violation specifics. To complicate matters, there has been confusion in Virginia courts as to whether a “dirk knife” or “switchblade knife” includes all fixed-blade or locking blade knives.

#### Problem 2: Virginia Law Defines Possession as Intent to Sell

Adding additional confusion is Virginia code Sec. 18.2-311, which states that a person carrying a, “switchblade knife, ballistic knife...or like weapon...” and “...having in one’s possession any such weapon shall be prima facie evidence... of his intent to sell, barter or furnish.” Since an automatic knife (referred to as a switchblade in Sec. 18.2-308 and 18.2-311) is **not** defined as a dangerous weapon, it is legal to own. However, the contradiction of Sec. 18.2-308 and Sec. 18.2-311 seems to indicate that a person openly carrying an automatic knife could be in violation of either section.

To illustrate the point, a roofer may carry an automatic knife in his pocket as part of his customary tools. While perched on a ladder, he only has one hand to open and lock the blade. When the roofer finishes for the day, he slips his automatic knife into his pocket with the belt clip visible. Even though the roofer is not carrying the knife in his pocket as a weapon but merely as a workman’s tool, and he certainly isn’t intending to sell the tool, this individual *could* be found in violation of the Code of Virginia Sec. 18.2-308 and Sec. 18.2-311.

While precedent indicates that a judge should adhere to the “letter and spirit” of the statute, the ambiguity of the code causes unnecessary confusion amongst law-abiding citizens<sup>1</sup>. Virginians should never have to go before a judge – and potentially face a conviction – simply because of these ambiguous laws.

#### The Solution:

We believe that there is a solution that will eliminate the confusion, allow consistent enforcement, and be in the best interests of knife users in Virginia; amend the Code of Virginia Sec. 18.2-308 and Sec. 18.2-311. Delegate Lee Ware has filed HB 1432 which does the following:

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<sup>1</sup> These cases include, but are not limited to, Virginia Court of Appeals, Richards v Commonwealth 1994, Delcid v. Commonwealth 2000 and Wood v. Henry County Pub Sch 1998.



Proposed Amendment Sec. 18.2-308.017: **Carrying switchblade knife; exception**

*Notwithstanding the provisions of subsection A of § 18.2-308, any person may carry a switchblade knife concealed when such knife is carried for the purpose of engaging in a lawful profession or recreational activity the performance of which is aided by the use of a switchblade knife.*

Proposed Amendment Sec. 18.2-311: **Prohibiting the selling or having in possession blackjacks, etc**

*If any person sells or barter, or exhibits for sale or for barter, or gives or furnishes, or causes to be sold, bartered, given or furnished, or has in his possession, or under his control, with the intent of selling, bartering, giving or furnishing, any blackjack, brass or metal knucks, any disc of whatever configuration having at least two points or pointed blades which is designed to be thrown or propelled and which may be known as a throwing star or oriental dart, ~~switchblade knife~~, ballistic knife as defined in § 18.2-307.1, or like weapons, such person is guilty of a Class 4 misdemeanor. The having in one's possession of any such weapon shall be prima facie evidence, except in the case of a conservator of the peace, of his intent to sell, barter, give or furnish the same.*

**About the American Knife and Tool Institute**

AKTI is a non-profit organization representing all segments of the knife industry and all knife users. Formed in true grassroots fashion by concerned industry leaders after considerable discussion with individual knife makers, knife magazine publishers, and a broad section of the knife community, AKTI has been the reasonable and responsible voice of the knife community since 1998. AKTI is widely-recognized as a respected, credible and accurate knife industry source, seeking to educate and inform legislators, law enforcement, and the public about our industry.

At AKTI, we believe that most people who carry a knife, do so for common, everyday purposes. People engaged in the building trades, agricultural and animal husbandry use and carry knives on a daily basis. Knives are also essential for many outdoor activities, including hunting, fishing, fur trapping, hiking, camping, boating and other such activities. Our goal is to ensure that law-abiding citizens feel knowledgeable and confident in their ability to carry the tools they use for their daily and recreational lives.

AKTI promotes common-sense solutions to issues facing law-abiding knife owners nationwide. AKTI's mission is to partner with policy makers and law enforcement officers to craft legislation to help address legislative vagueness, from the elimination of archaic terminology that is no longer objectively relevant, to the passage of statewide preemption of local knife ordinances, to the repeal of obtrusive or unnecessary knife laws.