

AKTI's South Carolina Pro-Knife Bill Becomes Law

By David D. Kowalski, AKTI Communications Coordinator

"We have a law," AKTI lobbyist Palmer Freeman announced late in the day on Wednesday, June 25, 2008.

AKTI's bill S968 cleared its final hurdle when both houses of the South Carolina legislature voted to overturn the veto of Governor Mark Sanford. A 2/3 majority vote of members present in both houses was required for the override.

Since the bill originated in the Senate,

the 34 Senators present (of 46 total) started the process. They voted 33-1 to override the veto. Two hours later, 105 Representatives present (of 124 total) registered their collective voice with a 93-12 vote to overturn the veto.

The bill becomes law virtually immediately. Here are the pertinent amended sections:

Section 16-23-405 of the 1976 Code is

amended to read: ... *'weapon' means firearm (rifle, shotgun, pistol, or similar device that propels a projectile through the energy of an explosive), a blackjack, a metal pipe or pole, or any other type of device, or object which may be used to inflict bodily injury or death.* (Removes the phrase ... "knives with blades longer than two inches".)

Section 16-23-460 of the 1976 Code is amended to read: ... (C) *The provisions of this section also do not apply to rifles, shotguns, dirks, slingshots, metal knuckles, knives, or razors unless they are used with the intent to commit a crime or in furtherance of a crime.*" (AKTI added "knives" to this list to reinforce removing the knife reference in 16-23-405.)

Does Heller Decision Apply to Knives?

By Daniel C. Lawson, Esquire

The landmark decision by the United States Supreme Court in the case of District of Columbia v. Heller has brought the national "gun rights" debate to the forefront. Perhaps those of us in the knife community are disadvantaged by the fact that there is no national knife rights debate. In any event, the June 2008 Heller decision directly addressed the issue of whether the U.S. Constitution, and specifically the Second Amendment thereto, preserves an individual right to keep and bear arms or, in the alternative, some sort of license which exists only in concurrence with one's service in a militia. The anti-gun advocates have long and loudly argued for the militia-only interpretation. Fortunately, five of the nine Justices respected the Constitution and decided in favor of an individual right.

It is of particular interest to knife owners that after affirming the individual right interpretation, which should have been unquestionable, the Heller decision went on to provide some further guidance on what is included in the right to arms.

The Supreme Court attempted to clarify several words used in the Second Amendment. With respect to the description or definition of what is intended by "Arms," the Court stated: "Before addressing the verbs 'keep' and 'bear,' we interpret their object: 'Arms.' The 18th-

century meaning is no different from the meaning today. The 1773 edition of Samuel Johnson's dictionary defined 'arms' as 'weapons of offence, or armour of defence.' 1 Dictionary of the English Language 107 (4th ed.) (hereinafter Johnson). Timothy Cunningham's important 1771 legal dictionary defined 'arms' as 'any thing that a man wears for his defence, or takes into his hands, or useth in wrath to cast at or strike another.' 1 A New and Complete Law Dictionary (1771); see also N. Webster, American Dictionary of the English Language (1828) (reprinted 1989) (hereinafter Webster) (similar). "The term was applied, then as now, to weapons that were not specifically designed for military use and were not employed in a military capacity."

The bottom line in the words of the Court is "the most natural reading of 'keep arms' in the Second Amendment is to 'have weapons.'" If knives are or can be weapons, then we, the people, have a right to keep and bear them.

Knives are tools. The overwhelming majority of people who carry knives do so for non-belligerent purposes. However, the fact that a knife can also be a weapon, or that a particular knife has features that might make it a more effective weapon, should not be a reason for legal prohibition as to the keeping or bearing of it. The U.S. Constitution pro-

AKTI can now claim success in every state where we have introduced pro-knife legislation. Conservatively, AKTI's legislative victories have saved 25 million individual knife owners.

The successful override effort was fueled by a major email campaign generated by knife-related forum announcements and direct emails from the AKTI communications office. As lobbyist Freeman said, "Quite a few of the legislators I spoke with and all of the staffers I spoke with mentioned the flood of emails, correspondence and calls they got on this veto vote. Thanks for the great grassroots effort."

AKTI would like to thank all those who took the time to send letters and emails during this process that involved several committee meetings, votes, and full floor votes in both houses, plus the veto-override vote. Kowalski also heaped

South Carolina Victory

praise on the efforts of lobbyist Palmer Freeman. "Without Palmer getting face-to-face with key decision-makers, this successful result would not have happened," Kowalski said.

AKTI's success in South Carolina continues a long line of legislative triumphs for bills they introduced that began in California in 2000, then Florida in 2003, Arkansas in 2007, and now South Carolina in 2008.

"Your AKTI membership dollars go directly to these successful efforts to make knife carry less perilous in this country," Kowalski concluded. "We can't do this without lobbyists and lobbyists cost money. By the same token, lawmakers who get emails, letters and phone calls on any issue know that voters are watching."

These legislative victories, one state at a time, are the only way to effectively change knife laws in the U.S. Aside from the Federal Switchblade Act, there is no national knife standard (and several states allow switchblade possession).

AKTI has developed a list of states where questionable or highly discretionary knife laws put millions of individual knife owners in jeopardy. While we are not quite ready to announce the next state on our list, we have learned some valuable lessons.

- 1) A bill must take a reasonable, rational position.
- 2) Hiring the right lobbyist is critical.
- 3) Both lobbyists and lawmakers need grassroots support prior to key votes.
- 4) Individual knife owners have a legitimate reason to contact lawmakers in any state where you live, have relatives who carry knives, plan to visit for business or personal reasons, plan to spend recreational dollars (such as hunting and fishing), or do business in any form. When you contact a lawmaker, make sure you personalize your connection to the state.
- 5) Finally, know that your contact makes a huge difference, as it did in South Carolina.

Once again, thank you. You made a difference. You helped all of us in the industry make history and make better law.

Heller Decision

vides that we have a right to have weapons. The United States Supreme Court in the Heller case has ruled that laws to the contrary offend the Constitution. When the founding fathers constituted our government, they clearly provided that the government would not be permitted to infringe on that right.

The Heller decision should offer some support for the ongoing efforts of AKTI to invite a more enlightened approach to knife legislation and to obtain relief from arbitrary and ill-conceived knife laws across the country.

However, we must remember that rights, even the inalienable rights, which are the subject of the first Ten Amendments to the U.S.

Constitution, may be subject to some limitation. As to the right to keep and bear arms, the Heller case does acknowledge the long-recognized ability of the state to enact some reasonable restrictions. In particular, the Heller Court notes the propriety of restricting "dangerous and unusual" weapons.

The Heller decision does not invalidate the myriad state and/or local laws regarding knives. Similarly, the Heller decision does not invalidate the Federal Switchblade Act. The Heller case does provide the basis for an argument that the Federal Switchblade Act is unconstitutional. Courts have previously upheld the constitutionality of the Switchblade Act on the grounds that a prohibition against switchblades would not impair any state militia and that the right to bear arms refers only to bearing arms for lawful purposes. United States vs. Nelsen, 859 F.2d 1318 (Minnesota 1988).

Most state statutes that contain prohibitions for knives are focused on knives that are historically associated with combat, such as dirks, daggers, stilettos, and swords. In other words, most state laws that limit or restrict knives attempt to address weapon knives. Under the Heller decision, the Second Amendment to the U.S. Constitution provides that people

have a right to have weapons.

Accordingly, the Heller decision supports an argument that a state statute prohibiting dirks or daggers may be constitutionally defective.

It would seem that man's oldest tool is neither especially dangerous nor unusual. Knives are common and have been with us since the Pleistocene Era. Statutory classifications of some knives as offensive weapons rather than defensive weapons may be arbitrary.

It is difficult to predict how the Courts and various state and local governments will react. Richard Heller was reportedly the first person in line when the District of Columbia started to accept registra-

tion applications in July 2008. His application was denied, in part because Washington, D.C. had enacted new rules for gun ownership. So he has again sued the city to challenge their new rules.

That will be the scenario in every state or city where

there are knife laws. The Supreme Court ruled in the Heller case, but other lawsuits in individual states will determine if and how the case will apply.

All Americans have not universally welcomed the Heller decision. It seems some are displeased that we have a right to the tools of self-defense, including members of the law enforcement and legislative communities. Unless you want to become the next test case, be forewarned about being armed.

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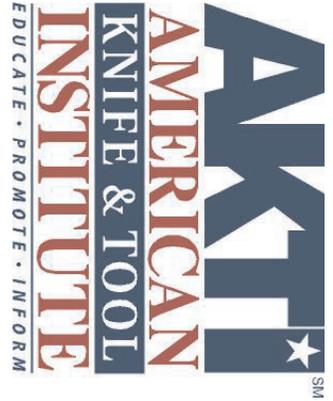


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AKTI defends your knife rights with a successful legislative program. An AKTI bill repealed the Arkansas knife weapons law in February 2007. AKTI's South Carolina bill in 2008 would overturn the state's ban on knives with blades longer than two inches. Other states will follow... if we can generate membership funds to hire lobbyists.

Join AKTI Today!
Help us win the fight for your knife rights!



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