

## Courts in Several States and U.S. Customs Declare Assisted-Opening Knives are NOT Switchblades

As a special service to members, we present several court cases from across the country where defendants were arrested for carrying an assisted-opening knife

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“While there have not been many of these cases, to our knowledge, the defendants have all been acquitted or charges dropped.”

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and charged under that state's anti-switchblade statute. While there have not been many of these cases, to our knowledge, the defendants have all been acquitted or charges dropped. We have previously published stories on the Michigan and Texas rulings (see sidebars). But we present new material here on cases in California and Illinois.

We urge readers to read our disclaimer statement below. And also keep in mind two other things. First of all, the particu-

### AKTI does not provide legal advice on assisted-openers.

The American Knife & Tool Institute provides the material in this newsletter for informational purposes only. We do not claim that a court in your state will rule the same way that courts already have ruled in the cases profiled here. AKTI does not provide legal advice to individual defendants. If you have a legal question about assisted-opening knives, please consult a qualified criminal attorney in your state. *Editor.*

lar facts in a court case are crucial to the end result. Juries and judges are best able to assess whether a witness or defendant appears to be telling the truth. So don't assume that a case would be decided in the same way every time, even in the same jurisdiction. But all these cases consistently spotlight a key fact. As a matter of law, these juries and judges have

decided that assisted-opening knives are not switchblades.

Secondly, the cases we present here may or may not have citation value or establish precedents in their state. A qualified defense attorney in the state in question could best speak to that subject.

Now that we've laid the groundwork, we'll highlight the rulings in several more

### Illinois Court: Chive Assisted Opener NOT Switchblade



The Kershaw Ken Onion Chive, Model KS 1600, has a 420HC stainless steel two-inch blade with a 410 stainless steel handle. The Speed-Safe torsion bar allows this knife to be opened with one push. Measures three inches long when closed and weighs 1.9 oz. *Photo courtesy of Kershaw Knives.*

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“The knife does not have a button in the handle...”

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that was purchased from a Snap-On dealer.

Upon examining the knife, Presiding Circuit Judge Scott H. Walden declared that “the knife does not fall within the meaning” of the switchblade statute. In the motion to dismiss the charge, which was granted, signed and filed on November 15, 2006, it was further stipulated that ...

3. *The knife is not spring loaded.*
4. *The knife does not have a button in the handle of the knife.*
5. *The knife is not a switchblade knife as defined by the criminal code.*

Defendant Jesse D. Cox was charged in the Circuit Court of the Eighth Judicial District, Adams, County, IL. His Case No. 06-CF-518 included a weapons charge in violation of Chapter 720, Act 5, Section 24-1(a)(1) of the Illinois Compiled Statutes.

The defendant's charge read, in part, ... “he knowingly possessed a Kershaw spring loaded knife, commonly referred to as a switchblade knife, which has a blade that opens automatically by hand pressure applied to a button in the handle of the knife, ...”

The facts of the case included identification of the knife, received as a gift, as a Kershaw Model Ken Onion 1600 VIB (Rainbow Chive), which is an assisted-opening folder

## Courts (Continued)

cases. Two companion cases are from January 2006 in the Superior Court of Orange County, CA. Another is from the Circuit Court of the Eighth Judicial Circuit of Illinois, Adams County, that was decided in November 2006. We thank Jeff Goddard, Director of Sales and Marketing at Kershaw Knives, Tualatin, OR, for making court documents and court-signed summaries of these judgments available to us.

Our thanks also to Benchmade Knife Company, Inc., Oregon City, OR, and Buck Knives, Inc., Post Falls, ID, as well as Kershaw and Gerber ... all long-time AKTI members ... for providing photos of representative styles of assisted openers.

Finally, our thanks also go to Gerber Legendary Blades, Portland, OR, for permission to reprint portions of a letter issued to their legal counsel by U.S. Customs and dated March 1, 2005. U.S. Customs states that certain Gerber models of assisted-opening knives are not switchblades and therefore permitted to be imported into the U.S.

## Knife Laws of the Fifty States - A Guide for the Law-Abiding Traveler

By David Wong

An attorney and knife enthusiast, David Wong's book covers the knife laws of all fifty states and the District of Columbia, and discusses the legal status of open carry, concealed carry, and off-limits locations for knife carry for the full range of knife types (including dirks, daggers, stilettos and automatics). Excerpts of relevant statutes and capsule summaries of knife-related case law are included for each state. In addition, the book covers municipal knife ordinances and regulations, which tend to be more restrictive than state law, for most major cities.

The book is available online from Amazon.com, Barnes & Noble.com, and many others, and may also be ordered from most retail bookstores.

## Orange County, CA Drops 653K Charges on Two Assisted-Opener Cases

In the court cases of Donald Wray Spease (Case 05SM03766 M A) and Matthew Alan Salisbury (Case 05SM03767), judge David R. Chafee dismissed charges against each for alleged violations of the 653k statute. Judge Chafee presided over the Superior Court of the State of California, County of Orange, and issued his rulings on January 13, 2006.

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**“Although some one-handed opening knives can be opened with a strong flick of the wrist, so long as they contain a detent or similar mechanism that provides some resistance to opening the knife, then the [653k] exemption is triggered.”**

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California's 653k statute declares switchblades with blades of two inches

or longer to be illegal to carry in the state. However, AKTI initiated and successfully passed SB 274 in 2001 that created exemptions to that statute for one-hand opening knives if they had a detent in the handle and a bias toward closure.

The legislative intent, supported by a letter (July 19, 2001) from sponsor and then-State Senator Betty Karnette (27th District) states ...

*Although some one-handed opening knives can be opened with a strong flick of the wrist, so long as they contain a detent or similar mechanism that provides some resistance to opening the knife, then the exemption is triggered. These knives serve an important utility to many knife users, as well as fire-fighters, EMT personnel, hunters, fishermen, and others.*

Although the model numbers were not reported, the above defendants were arrested for carrying assisted-opening knives (which are variations of one-hand opening knives). The judge dismissed those charges against both pursuant to Penal Code 1385 - "Furtherance of Justice." He obviously decided that these assisted-opening knives were not switchblades.

## Michigan Case Declares Kershaw "Speed Safe" NOT Switchblade

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**“Switchblades, by definition, are opened by pressing a button in the handle. Our 'Speed Safe' knives require that blade opening is started by fingers on the blade or on a thumb stud.”**

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Waterford, Michigan -- A Michigan jury decided that a defendant arrested for carrying a Kershaw "Speed Safe"

Model #1560 was not in statutory violation of statute MCL 750.226a which prohibits carrying a "switchblade." The defendant had all charges dismissed and the knife returned to him.

The case was in the Michigan District Court for the 51st Judicial District, Case 020062SM, decision rendered on January 21, 2003, in Waterford, MI.

"We're pleased with the court decision," Kershaw's then-national sales manager said. "Switchblades, by definition, are opened by pressing a button in the handle. Our 'Speed Safe' knives require that blade opening is started by fingers on the blade or on a thumb stud."

# U.S. Customs: Gerber Assisted Openers NOT Switchblades

On March 1, 2005, a corporate attorney for Fiskars Brands, Inc. (parent of Gerber Legendary Blades) received a seven-page letter from a representative of the U.S. Customs service. Fiskars had asked U.S. Customs to reconsider (on July 8, 2004) its determination (HQ 116229) that a shipment of several models of Gerber assisted-opening folding knives not be allowed entry into the U.S.

*Continued on page 6*

Gerber FAST Knife



Gerber Legendary Blades introduced its first spring-assisted knife with what it calls “Forward Action Spring Technology™.” The mechanism was created and patented by Oregon knifemaker Butch Vallotton. This gives the owner the option of opening the blade with the thumb stud or using the index finger to trigger the spring opener. This Fast Draw model has tactile texturing on the glass-filled nylon handle. The blade is high carbon stainless steel and measures 2.99 inches long. *Photo courtesy of Gerber Legendary Blades.*



Buck 295BLX Tempest

Buck Knives produces several assisted openers, including this Model 295BLX, the Tempest. The company's website describes it as a full-size, assisted-opening knife with a unique skeleton handle construction and Buck's patented ASAP Technology™ - an advanced-design spring mechanism that provides easy, safe blade release. Blade length is 3.25 inches, blade steel is 420HC, and the handle is made from 6061 T6 aircraft-grade aluminum.

The company also provides this standard caution. “Buck's ASAP Technology™ 'assisted-opening' knives are functionally different from automatic knives (switchblade type) that typically use gravity or a handle button/lever to release the blade from a closed position. Buck's 2-stage operation (safety & blade release lever) is designed for user safety and does not use a handle button/lever. However, users are responsible for investigating laws applicable to assisted-opening knives in their jurisdiction.” *Photo courtesy of Buck Knives.*



Benchmade 14460 HK Nitrous Blitz

Benchmade has its own version of the assisted opening mechanism in this Model 14460 HK Nitrous™ Blitz™ that features an ambidextrous thumb stud for opening. The liners are titanium and the handle material is black G10. This USA-made knife has a blade length of 3.4 inches. *Photo courtesy of Benchmade Knife Company.*

## Kershaw Speed Safe Knives Get OK in Ontario, Canada

As we go to press, we have just received a summary letter from a Canadian Barrister (attorney) representing an Army Surplus retailer in Oshawa, Ontario, Canada. The retailer was charged under a prohibited weapons statute.

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**“With respect to the Kershaw Speed Safe knives, the court ruled completely in our favour.”**

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His attorney, Doug Gosbee, forwarded the following summary of the judgment. We will provide a more complete statement of the ruling in our next Update.

“I confirm that we were successful in relation to the Speed Safe knives and the knives which were merely 'capable' of being converted to a prohibited weapon. Merely being capable of being converted to a prohibited weapon is not sufficient. With respect to the Kershaw Speed Safe knives, the court ruled completely in our favour.”

# AKTI means AKTIon!

AKTI has saved  
more than **21 million**  
knife owners!

**2007** AKTI saves 1 million Arkansas knife owners and visitors.

**2004** AKTI opposes New York City knife busts.

**2003** AKTI bill saves 6 million Floridians;  
clarifies “ballistic knife” definition

**2002** AKTI saves 2 million Boston knife owners and visitors;  
opposes 2 1/2" blade-length standard

**2000** AKTI bill saves 12 million Californians; 653k exempts  
one-hand openers in switchblade statute.

Become a “Grassroots Supporter”

AKTI victories proved YOUR EMAILS and letters to lawmakers ARE POWERFUL.  
That’s why we need you as a “Grassroots” Supporter.  
Help us save your individual knife rights!

**Sign up today! Go to [www.akti.org](http://www.akti.org)**

# We need you as a "Grassroots" Supporter !!!

## Your emails and letters to lawmakers are powerful !!!

AKTI has fought for knife rights of individual knife owners across the country for nearly ten years. And we have won some huge legislative victories that have helped millions of knife owners in California, Florida and in Arkansas. AKTI's position is that law-abiding citizens should be able to carry knives. Many states have statutes where knife carry is considered a weapons offense; intent to cause bodily harm is not necessary.

Thanks to a bill introduced and supported by AKTI, the Arkansas legislature virtually unanimously agreed to repeal its entire knife weapons statute based on blade length in early February 2007.

These significant victories don't happen without a strong lobbying effort and key phone calls, emails and letters from knife owners. That's why we need your help to continue AKTI's amazing success story.

We need you to become a "Grassroots" Supporter willing to contact lawmakers via email for important committee and legislative votes.

Lawmakers respond to emails. And because speed of response is often critical, we'll communicate with you the same way. Of course, we will also encourage you to phone or mail letters to your lawmakers so your voice can be heard.

**As an AKTI Grassroots Supporter, you will receive ...**

- 1) **Regular electronic updates** on knife rights issues across the country.
- 2) **Requests to contact lawmakers** on knife issues important to knife owners in various states and at the federal level.
- 3) **AKTI emails sent to you clearly marked as AKTI Updates** so you can quickly spot them, route them through your spam filters, save them and act on them.

Don't let this day go by without joining this powerful group that will change knife laws.

You also have our promise not to sell your name or email address to any outside marketers or to share our list with any other entity.

**There is no fee to become a Grassroots Supporter, but your donations are always appreciated.**

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**Your voice will be heard!  
You will make a difference!**

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### Join on the AKTI Website

Go to ... [www.akti.org](http://www.akti.org)

Click on Join Today at the top of the home page. Then scroll down to "Grassroots Supporter" under Membership Categories. When you click on Sign Up Today at the end of the description, you will be connected to an online form where you can provide information about yourself. Click Submit.

Finally, you will receive an email asking you to verify your request to join. Please respond to that. Now you're ready to start receiving electronic news from AKTI! Now you're ready to help us fight for your knife rights!

## YES, I will join AKTI and help support responsible knife use!

**Give generously! Your membership dues help...**

- 1) **Fight for your knife rights...as we did in Arkansas, California, Boston, Florida, wherever AKTI is needed!**
- 2) **Communicate regularly with knife users and the editors of more than 50 outdoor publications!**
- 3) **Help lawmakers and law enforcement with solid information...such as the knife measuring protocol.**

**Consider supporting AKTI with a Life Membership.**

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*Note: Since the American Knife and Tool Institute, Inc. has filed as a 501(c)(6) not for profit tax status, dues may be deductible as a business expense, but not as a charitable contribution.*

## U.S. Customs (Continued)

While we do not have information on the initial decision to stop the importation, U.S. Customs very clearly reverses itself, not even adding the hint of any qualifiers to their decision. Here are key excerpts (in italics) from the U.S. Customs final determination letter.

*The subject merchandise are release assisted knives designed to be primarily used as a “general carry.” The knife’s features, such as the belt clip and serrated edge, are characteristic of a jackknife or pocket knife, rather than a weapon. There are two versions of the knives at issue. Part number 22-0761 [07161] is a serrated blade version (previously attached as Sample A) and part number 22-07162 is a fine edged version (previously attached as Sample B) [Footnote omitted.]*

*... part number 22-07161 (Exhibit A) is a folding blade knife made in Taiwan. The knife is made of metal and includes a pocket clip on the side of the handle. The knife has the visual appearance of a jack-*

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**“They do not open automatically by hand pressure applied to a button or device in the handle, nor do they open automatically by operation of inertia, gravity, or both. We find additionally that the subject knives have a blade style designed for a primary utilitarian use.”**

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*knife or pocketknife. The knife measures 4 ¼ inches long when closed. When extended, the blade of the knife measures 3 inches total. The blade has a serrated section measuring 1 ¼ inches. The overall length of the knife, when extended, is 7 ¼ inches. There is a 3/16 inch thumb*

*stud on each side of the unsharpened edge near the base of the blade used for pulling the blade open. The blade has a single edge and can be locked into an open position by the use of a safety device. The same safety device is used to lock the knife in the closed position. This device does not act to open or close the knife - its sole function is to keep the knife locked in the knife’s then-existing position. The knife also has a lock mechanism that must be released to close the knife once the knife is open. This mechanism is not engaged in any way to open the knife. Release assisted knife, part number 22-07162 (Exhibit B), is identical in description to part number 22-07161 (Exhibit A), except that it has a fine edge, not a serrated blade.*

The U.S. Customs writer then provides some statutory and regulatory background.

*Pursuant to the Act of August 12, 1958 (Pub. L. 85-623, codified at 15 U.S.C. 1241-1245, otherwise known as the “Switchblade Knife Act”), whoever knowingly introduces, or manufactures for introduction, into interstate commerce, or*

## Texas County DA and State Attorney General Rule Assisted Openers NOT Switchblades

As a result of a February, 2005 arrest of a Texas college student for bringing an assisted-opening knife on campus in Brazoria County, TX, we have another ruling by a District Attorney that such knives do not meet the definition of a switchblade.

According to Jeff Goddard, Director of Sales and Marketing at Kershaw Knives, Tualatin, OR, “The DA, Angie Morris, got several opinions, including one from the Texas Attorney General. They have all stated that these assisted-opening knives do not meet the definition of a switchblade.”

Goddard indicated the parents of the college student “were pretty upset since the knives are sold everywhere.”

DA Morris acknowledged that the knives “do open fast,” but they have dropped the charges against the stu-

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**“Several Texas DAs have expressed the opinion that this class of knives is not illegal.”**

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dent and they have backed off of all issues regarding these knives, Goddard reports. “She told me they are legal to sell in Brazoria County, TX,” Goddard said.

The DA also indicated there is a website for the TDCAA (Texas District & County Attorneys Association) where discussion continues regarding the knives. DA Morris alerted Kershaw about the site, where several Texas DAs have expressed the opinion that this class

of knives is not illegal, Goddard adds.

The site is [www.tdcaa.com](http://www.tdcaa.com). Go to “User Forum” tab and type “assisted knives” in the search on the bottom of the page.

Or use this link to some postings by Texas attorneys.  
<http://tdcaa.infopop.net/2/OpenTopic?q=Y&a=search&f=157098965&s=347098965&reqWords=assisted+knives&submit1=Find>

*Editor’s Note: As of August 1, 2007, the above link to the TDCAA forum was still in operation. Among other opinions, one of the attorney participants made the following observation ... “Almost every police officer I know carries an assisted opening knife.”*

transports or distributes in interstate commerce, any switchblade knife, shall be fined or imprisoned, or both.

The Customs and Border Protection (“CBP”) Regulations promulgated pursuant to the Switchblade Knife Act are set forth in 19 CFR 12.95-12.103. In this regard we note the following definitions:

**12.95 Definitions.**

Terms as used in 12.96 through 12.103 of this part are defined as follows:

(a) **Switchblade knife.** ...any imported knife,...including “Balisong”, “butterfly” ... knives, which has one or more of the following characteristics or identities:

(1) A blade which opens automatically by hand pressure applied to a button or device in the handle of the knife, or any knife with a blade which opens automatically by operation of inertia, gravity, or both;

(2) Knives which, by insignificant preliminary preparation, as described in paragraph (b) of this section, can be altered or converted so as to open automatically by hand pressure applied to a button or device in the handle of the knife or by operation of inertia, gravity, or both;

(3) Unassembled knife kits or knife handles without blades which, when fully assembled with added blades, springs, or other parts, are knives which open automatically by hand pressure applied to a button or device in the handle of the knife or by operation of inertia, gravity, or both; or

(4) Knives with a detachable blade that is propelled by a spring-operated mechanism, and components thereof...

(c) **Utilitarian use.** “Utilitarian use” includes but is not necessarily limited to use:

(1) For a customary household purpose;

(2) For usual personal convenience, including grooming;

(3) In the practice of a profession, trade, or commercial or employment activity;

(4) In the performance of a craft or hobby;

(5) In the course of such outdoor pursuits as hunting and fishing; and

(6) In scouting activities.



Gerber's line of Presto knives feature an aluminum handle with rubber inserts and use Gerber's patented F.A.S.T. assisted opening technology for quick, easy, one-handed deployment. A safety protects user while the blade is in open and closed positions. Photo courtesy of Gerber Legendary Blades.

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**“The subject knives have a blade style designed for a primary utilitarian use as defined in 19 CFR 12.95(c) and they are not switchblades within the meaning of 19 CFR 12.95(a)(1).”**  
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Other pertinent regulations are as follows:

**12.96 Imports unrestricted under the Act.**

(a) Common and special purpose knives. Imported knives with a blade style designed for a primary utilitarian use, as defined in 12.95(c), shall be admitted to unrestricted entry provided that in condition as entered the imported knife is not a switchblade knife as defined in 12.95(a)(1). . . .

(3) Marketing and promotional materials with respect to the subject knives are not yet available as Fiskars has not begun commercially importing the knives. You submitted various marketing materials with respect to other Fiskars' products, some of which are similar to the subject knives. Such similar knives, which are within the same class of lightweight folding knives as the subject knives, are the “E-Z-Out,” “Gator” and “L.S.T” knives. Promotional materials for the Gator knives provide that they are “used by a wide assortment of people including fishing and hunting enthusiasts, electricians and repairmen and many more.”

Materials for the E-Z-Out knives provide: “A hard working electrician, repair-

man, policeman or home repair person seldom has both hands free to retrieve a knife. With the E-Z-Out they need only one hand to reach down, grab the knife, open it, use it and put it away.”

Materials for the L.S.T. knives refer to them as “the perfect pocket knives.” They are “light enough to be carried everywhere, strong enough for everyday activities, and tough enough to do anything.”

**Our Analysis and Determination**

As indicated above, in HQ 116229 this office found that the subject knives are switchblades within the meaning of 19 CFR 12.95(a)(4). Upon further review, however, we have now determined that the subject knives are not switchblades within the meaning of 19 CFR 12.95(a)(1) because they do not meet the criteria therein, i.e., they do not open automatically by hand pressure applied to a button or device in the handle, nor do they open automatically by operation of inertia, gravity, or both. We find additionally that the subject knives have a blade style designed for a primary utilitarian use within the meaning of 19 CFR 12.95(c).

Accordingly, we conclude that the requirements of 19 CFR 12.96(a) are satisfied, i.e., the subject knives have a blade style designed for a primary utilitarian use as defined in 19 CFR 12.95(c) and they are not switchblades within the meaning of 19 CFR 12.95(a)(1). Therefore, pursuant to 19 CFR 12.96(a), the subject knives (part nos. 22-07161 and 22-07162) are permitted unrestricted entry into the United States....

Sincerely,  
Charles D. Ressin  
Acting Director  
International Trade Compliance  
Division



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## Compliments of...

### Goldie Russell Becomes Fifth AKTI President Jeff Goddard is Vice President



Goldie Russell was elected the fifth president of AKTI at its 10th annual meeting, June 7, 2007, and also becomes the group's first woman president. She is CEO and President of A.G. Russell Knives, Inc., Rogers, Arkansas.



Jeff Goddard, Director of Sales & Marketing at Kershaw Knives, Tualatin, Oregon, was elected Vice President. Both officers have two-year terms. Goddard will move up as the organization's president in 2009.