

Legislative Analysis



REPEAL BAN ON SWITCHBLADES

Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

Senate Bill 245 (reported from House committee without amendment)

Sponsor: Sen. Rick Jones

House Committee: Judiciary

Senate Committee: Judiciary

Analysis available at
<http://www.legislature.mi.gov>

(Enacted as Public Act 96 of 2017)

Complete to 5-31-17

BRIEF SUMMARY: The bill repeals a section of law prohibiting the sale or possession of a type of pocketknife known as a "switchblade."

FISCAL IMPACT: Senate Bill 245 would have no fiscal impact on the state. The bill could result in a decrease in costs for local units of government related to county jails and/or local misdemeanor probation supervision. The costs of local incarceration in county jails and local misdemeanor probation supervision vary by jurisdiction. There could also be a decrease in penal fine revenues which would decrease funding for local libraries, which are the constitutionally designated recipients of those revenues.

THE APPARENT PROBLEM:

A switchblade is a type of knife that though the sale or possession is currently prohibited, is very commonly carried, especially by hunters, fishermen, and certain tradespeople, according to a representative of the Michigan State Police. For example, a roofer may find a switchblade to be a safer tool when hanging onto a ladder with one hand and trimming a roof tile with the other. Reportedly, law enforcement in some jurisdictions enforce the prohibition, whereas others do not. With other statutes in place to deal with the unlawful use of various dangerous weapons, and with no widespread problem of switchblades being used to commit crimes, some feel it is time to eliminate the criminal penalty for selling or possessing a switchblade.

THE CONTENT OF THE BILL:

The bill repeals a section of law prohibiting the sale or possession of a type of pocketknife known as a "switchblade."

Currently, a person who sells, offers to sell, or possesses a knife with the appearance of a pocketknife of which the blades can be opened by the flick of button or pressure on the handle or by other mechanical contrivance is guilty of a misdemeanor punishable by up to one year in jail and/or a fine of not more than \$300. The ban on switchblades currently does not apply to any one-armed person carrying a knife on in connection with living requirements.

Senate Bill 245 would amend the Michigan Penal Code to repeal Section 226a, the prohibition described above (MCL 750.231 and 750.237a). The bill also amends Sections 231 and 237a of the Code to remove references to the repealed provision.

[Section 231 specifies that certain provisions of the Code, including Section 226a, do not apply to particular individuals—generally law enforcement, corrections officers, and military personnel. Section 237a makes it a misdemeanor to engage in certain prohibited conduct, including selling or possessing a switchblade under Section 226a, in a weapon-free school zone.]

HOUSE COMMITTEE ACTION:

The committee reported the Senate-passed version of the bill without amendment.

ARGUMENTS:

For:

Proponents of the bill say Michigan's prohibition on selling or possessing a switchblade was added 65 years ago at a time when public perception of the dangerousness of such knives was fueled by movies such as *Stalag 17* and often believed to be the weapon of choice for gang fights and youth violence as later characterized in *West Side Story* on Broadway (1957) and on the silver screen (1961). Eventually most states and the federal government enacted some form of ban or restriction on the sale and/or possession of switchblades.

In recent years, several states and the federal government have relaxed their laws on switchblades, with some repealing the ban altogether. There is little data on the impact of the legislative changes, especially since crime statistics on use of knives does not necessarily identify the type of knife used. However, one research paper that looked at the use of switchblades and other knives to commit crimes concluded that, based on available data, "there is no evidence that switchblade bans have had any significant effect either on crime overall, or on the use of knives in crime."

Florida, Oregon, and New Hampshire, which legalized switchblades, experienced a decrease in the percentage of crimes committed with knives. Rather, the data suggests that the availability of guns is the single greatest factor affecting the use of knives in committing violent crimes. There appears to be a correlation in that as gun use increases, knife use decreases. Further, the paper highlighted the problem courts had of identifying whether a particular knife was indeed a switchblade or a legal pocketknife that was capable of being opened by one hand. [Clark, P.A. (2014). Criminal use of switchblades: Will the recent trend towards legalization lead to bloodshed? *Connecticut Public Interest Law Journal*, 13.2, 31, 271-272.]

Against:

Historically, switchblades have been prohibited in Michigan and other states based on their ability to harm others. The danger that knives pose in attacks was recently underscored by

the deaths of two bystanders, and a third being injured, on a Portland, Oregon commuter train who came to the aid of other passengers being verbally targeted by a male passenger.

POSITIONS:

A representative of the Michigan State Police testified in support of the bill. (5-16-17)

The American Knife and Tool Institute indicated support for the bill. (5-16-17)

Legislative Analyst: Susan Stutzky
Fiscal Analyst: Robin Risko

■ This analysis was prepared by nonpartisan House Fiscal Agency staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.