

Gun Lawyer -- Episode 35 Transcript

SUMMARY KEYWORDS

knife, switchblade, ban, law, new hampshire, gun rights, assisted, opener, freedom, blade, gun, states, rights, fight, guns, automatic, repeal, lawyer, firearm, moms

SPEAKERS

Evan Nappen, Speaker 3

Evan Nappen 00:20

I'm Evan Nappen and welcome to Gun Lawyer. I just came back from the Blade Show in Atlanta (Georgia). That's one of my favorite places to go. It is the largest blade show in the world. They sometimes call it the International Cutlery Fair, but it is basically 1,000 tables of everybody who's anybody in the world of knives. I have always been a big fan of knives. I like guns. I like knives just as much, and I have quite a background with knives. When I was in college, I worked in a knife store. I worked at Herders Cutlery in the mall. In the old days we used to actually have a knife store in the mall. Can you imagine such a thing? We are lucky there is even a mall around these days. While working in Herders Cutlery, I met the love of my life. I met my wife who worked at Friendly's Restaurant and that is how we met - in the mall. What a story, huh? There you go. But it has always been a subject that I love. I love knives. No question about it. There are many of you out there, I am sure, that are similar fans of edged weapons of all types. The Blade Show is just the ultimate in edged weapons.

Evan Nappen 01:55

In my career, I have had many different cases dealing with knives, and I have been on the forefront of many of the fights for our knife rights. Remember, the Second Amendment is the right to keep and bear arms. It is not the right to keep and bear guns. Arms, of course, includes knives. So, it is a Second Amendment issue. Absolutely. It is a Second Amendment issue. It is even recognized in the seminal landmark Second Amendment cases like Heller (District of Columbia v. Heller, 544 U.S. 570 {2008}) and McDonald (McDonald v. Chicago, 561 U.S. 742 {2010}). There is commentary about knives as well being protected. It is an area that is astounding in its success, believe it or not, in terms of the fight for knife rights. I am going to get into that in a little bit because it is really worth noting and understanding.

Evan Nappen 03:01

In many ways the Knife Rights movement is absolutely outshining and outstripping the gun rights movement, and there are many reasons why that is. It is great that these successes are taking place. However, New Jersey is one of the minority of states left that still bans possession of a switchblade, dagger, dirk, stiletto, etc. They do have those bans, but there is an exception in New Jersey's law to the ban. It has to do with whether you can show (the burden is on you, as a defendant, isn't that nice) that you have a manifest lawful purpose for why you might have this item. If you can demonstrate that, then you get yourself within the exemption.

Evan Nappen 03:59

I had one case where a fellow was arrested and charged with possessing, basically a wonderful collection, a \$25,000 collection of switchblades. Today we call them automatic knives. Switchblade is kind of an old vintage term, but it is still in the law, so we have to still use it. He was charged, but I was able to show that he was a Collector. Every knife had a historical, otherwise artistic, or mechanical uniqueness to it that made it a collectible. I showed that he subscribed to collector magazines including Blade Magazine and that he belonged to Collector Clubs, including Arms Collector Club.

Evan Nappen 04:48

We painted the entire picture, very clearly, that he was a collector and that he had these knives possessed for that purpose. I was able to get him inside the exemption, and believe it or not, in the State of New Jersey, we got the charges dismissed and his knife collection returned. It was quite a fight, but we were able to do it. On one hand, it was great to save him and his collection, but on the other hand, it is really ridiculous that these laws put a burden of proof on the owner to prove that they are within some exemption.

Evan Nappen 05:31

That is why in New Jersey, we say "You are guilty until you prove yourself innocent." That is actually how the law works. It switches the burden on to you to prove your innocence. Now, for those of you who do not live in New Jersey or have residences in other states or vacation homes in other states, every state has its own or lack of knife laws. There is, of course, the Federal law that we will talk about in a minute. The question is, how are things going in terms of state law, and the Knife Liberty Movement? This has always been a passion of mine, and in 2010, I saw an opportunity in New Hampshire because New Hampshire still had a knife ban that prohibited switchblade dagger, dirk, and stiletto. And I said, this really needs to be repealed, and I think that it could happen in New Hampshire.

Evan Nappen 06:40

So, I spearheaded the effort, and I got some legislators to work with me. I got together with Knife Rights (www.KnifeRights.org), who eagerly jumped on board, and we got ourselves a fundraiser for a lobbyist. In 2010, New Hampshire was the beginning of the Knife Liberty Movement. New Hampshire repealed all its knife laws. In addition to the repeal of the knife laws, including the ban on switchblades, they also enacted what is called preemption so that towns and cities could not pass their own knife law. It is all up to the state if the state is going to have any knife laws. New Hampshire became essentially one of the freest knife states in the country. There were no knife laws anymore. You could buy, sell, own, carry, or possess any type of knife. The only restriction is that you could not bring it into a courthouse.

Evan Nappen 07:55

What made it even more unbelievable is that we were able to accomplish the repeal of the switchblade ban in a legislature that was controlled by Democrats, both houses and a governor that was Democrat. That's right. Many of you may not know that New Hampshire is the third largest governing body in the world. New Hampshire actually has 400 Legislators in the house, 24 Senators, and a Governor. So, there is literally 425 people that get to have a say on any bill. In the case of the Knife Law Bills (brace yourself for this), we got a unanimous vote. Can you imagine 425 politicians agreeing to anything, no

less unanimous on the repeal of the ban on switchblade, dagger, dirk, and stiletto? The fact that we could get that done in New Hampshire really lit the fuse for the Knife Rights Movement.

Evan Nappen 09:31

Knife Rights has taken the forefront on this movement, and today it is really astounding to know that that sixteen (16) switchblade bans, or restrictions have been completely repealed. Sixteen states have knife freedom. This includes Alaska, Indiana, Kansas, Maine, Missouri, Montana, New Hampshire, Nevada, Oklahoma, Tennessee, Texas and Wisconsin. When it comes to knives, there are 44 states in America that allow possession to one degree or another, and 34 states in America that have no restriction on possession or open carry. Twenty-nine states allow concealed carry. What does this tell you? This tells you that a majority of the states have knife freedom.

Evan Nappen 10:59

It really makes you wonder why there is a Federal prohibition on these knives at all when the majority of states do not prohibit them. They are rapidly repealing them if they do - other than the standard hold outs you would expect when coming to any type of weapon, such as New Jersey, New York, etc. You do not see them doing it. But the majority of America is pro knife. The majority of America has Knife Liberty. So, why do we have a Federal law, the Federal Switchblade Act, which prohibits the interstate transactions in switchblades? It is an interesting study because the Federal Switchblade Act is really an enormous propaganda effort that began in 1950. This effort really mirrors what we see the anti-gun folks doing today. They take some firearm or knife that they can scare the public about, and then they use that to get legislation through that is sweeping and creating bans on our freedom and liberty.

Evan Nappen 12:51

If you look at the history of the switchblade law, you can see this in action and learn from it. The modern federal switchblade ban actually began, you can literally trace it to an article in the Woman's Home Companion (November 1950). The article was called, ready for this, folks? "THE TOY THAT KILLS". That's right, "The Toy That Kills", and what did they do? Stir up the moms. Gee, what is that anti-gun group funded by Bloomturd called? Oh, yeah. Moms, right. Moms needing action all the time. They need action. No, it's Moms Demand Action. Right? Why the moms? Where do they get that from? Surprising success of the political propaganda that you can take something and scare the hell out of the moms, and this is a tactic.

Evan Nappen 14:10

By the way, this article, this muckraking, ridiculous article was full of lies, full of just garbage. The guy who wrote it was Jack Harrison Pollock, and guess what? He was not just a freelance writer, but a ghost writer for then Senator Harry Truman. So, there is your political operative, creating an issue, getting it into the Woman's Home Companion and scaring the moms. Now they had something they could run around and make it like they were doing something about youth of violence. Then you combine it with the scary, scary stuff that Hollywood was producing, right? West Side Story, Rebel Without a Cause, 12 Angry Men. There are switchblades in the whole thing. Switchblade propaganda. There it is. If we ban switchblades, it will end youth violence. Eight years later we got the Federal Switchblade Act. This is what we saw, and it has really become completely obsolete.

Evan Nappen 15:32

For over 30 years Attorney Evan Nappen has seen what rotten laws do to good people. That's why he's dedicated his life to fighting for the rights of America's gun owners. A fearsome courtroom litigator fighting for rights, justice, and freedom. An unrelenting gun rights spokesman tearing away at anti-gun propaganda to expose the truth. Author of six best-selling books on gun rights, including Nappen on Gun Law, a bright orange gun law Bible that sits atop the desk of virtually every lawyer, police chief, firearms dealer, and savvy gun owner. That's what made Evan Nappen America's Gun Lawyer. Gun laws are designed to make you a criminal. Don't become the innocent victim of a vicious anti-gun legal system. This is the guy you want on your side. Keep his name and number in your wallet and hope you never have to use it. But if you live, work, or travel with a firearm, the deck is already stacked against you. You can find him on the web at EvanNappen.com or follow the link on the Gun Lawyer resource page. Evan Nappen, America's Gun Lawyer.

Speaker 3 16:46

You're listening to Gun Lawyer with Attorney Evan Nappen. Available wherever you get your favorite podcast.

Evan Nappen 17:02

So, the history of switchblade law is really fascinating, and it illustrates what we need to know in terms of our gun rights. There is much that can be learned from it. Before I get further into that, I want to ask you to help keep a fellow gun owner and knife owner from becoming a law-abiding criminal. Tell them to listen to Gun Lawyer radio, visit our website at Gun.Lawyer and take a look at our Inner Circle. It is on our website. Sign up for the Inner Circle and you are going to get the inside from me, Evan Nappen. I will give you tricks, tips, and insight. Sign up. It is free. Please help me communicate with you to touch base so that I can let you know what is going on because big tech does not care about our gun rights. They do not like us, and they are trying to shut us down. It is really something with big tech trying to silence us. This radio show and the Inner Circle are ways you can stay informed as we fight the fight. Please subscribe to the podcast, join the Inner Circle and help me get the word out. It is very important, and I am depending on you. I also would like to mention my good friend, Mitch Rosen, who makes the finest gun leather. I carry his rig all the time, and I think you will appreciate just how incredible his products are -- Mitch Rosen Extraordinary Gunleather.

Evan Nappen 18:46

So, this is really something in terms of the progress that the Knife Liberty Movement has made. If you compare it to the movement in gun rights, the gun rights movement has been very successful in one very important key area -- extremely successful in the area of our ability to carry a firearm concealed and for self-defense. Now granted, there are some really tough states, some holdouts that are just so stubborn and refuse to get with the modern view of freedom. You know, New Jersey, New York again the usual suspects, but the majority of America has adopted not just shall issue carry permits, but also many constitutional carry states. Texas recently passed Constitutional carry, where you carry with no permit. When you look at the movements with guns and you look at the movements with knives, you can learn from them -- how our adversaries act, what they will do, and how to counter it.

Evan Nappen 20:07

When you think that New Hampshire got the entire Democrat-controlled government to have a unanimous vote on this, it is really astounding. How did we do it? Well, we did it by education. We did it by showing that the automatic knife or switchblade is actually something that should not be banned, and in fact, is a safer knife. It is safer because it is one of the few folding knives that actually lock closed as well as open. Most automatic knives have that ability to lock closed with a safety that other folders do not have. So, why do we ban the safer knife? It's stupid.

Evan Nappen 20:51

By the way, what is the big deal about an automatic knife? What makes it so intrinsically dangerous? Why is it "The Toy That Kills"? First of all, it is not a toy, it's a tool. It doesn't kill, people kill. Whether or not you can open your knife with one hand, which can be very helpful when you're holding rope, when you're engaged in any cutting, even in a utilitarian manner to be able to have one hand access, even as fast as you might be able to get a switchblade to open, it is never as fast as a fixed blade. Because a fixed blade, you just draw out of the sheath, end of story. There is no opening at all. So, why is it that a knife that can open with one hand, suddenly has some intrinsically evil quality about it, as opposed to any other knife, including a kitchen knife, that we don't have to open at all? There is no logic to it. It's just stupid. It is hoplophobia, a fear of weapons. This is what we are constantly having to fight, and the fear is hyped by the media.

Evan Nappen 22:09

Apparently, their mission is to destroy our rights under the Second Amendment, both with knives and guns. But the success of the Knife Rights Movement has made it so that there really is no more need for a Federal switchblade prohibition. It's archaic. It was passed in the 50s. One of the things we said in New Hampshire was "Look, the Sharks and the Jets, they are in their 80s now, and you do not have to worry about switchblades anymore." Okay, it's absurd. The automatic knife has such an important utilitarian function. If we can get to the goal, which is not just the states legalizing and removing these absurd bans on our liberty and our freedom, but also to get the Federal switchblade law finally repealed. Because it is only a handful of states, we do not need this Federal law. Then we get rid of the base of the Federal knife law. Because if we eliminate the Federal switchblade law, then we no longer have any Federal knife law, and that's great.

Evan Nappen 23:36

Look at what happened in the gun rights. We got the 1934 NFA (National Firearms Act) aka the machine gun act. Then what was built on that -- the 1968 Gun Control Act. And then what was built on that? Well, the 1994 Assault Weapon Ban is built on that. We need to take it the opposite direction. We need to get rid of the knife laws as well as the gun laws. This is the goal. There is not at this time, luckily, an organized anti-knife movement in America. They are focused on guns. The elitist money (Bloomberg and Soros etc.) is going toward guns.

Evan Nappen 24:21

Yet in the UK, where they have effectively banned firearms, there is a huge anti-knife movement because they need some other boogeyman. They cannot keep blaming guns because they passed all the gun laws to disarm to the maximum they could get away with there. So, what do you have? You have knife laws being put forward. They have bans on pointy kitchen knives. You have Britain passing

the knife act where they can search you at any time for a knife. You cannot have any kind of knife on your person. It is absolute the opposite of knife freedom, and the media is completely behind it there. They even have these bins, metal bins that look like the bins we might donate clothing to, called Knife Surrender Bins, where they want you to surrender your knife into these bins is that nice? No compensation, nothing. So, do not think it cannot happen here because it can. The modern gun movement actually came here from England after World War Two. It started across the pond and then infected us. That is where the fight started. So, do not think we cannot have an anti-knife movement. We absolutely could, and we need to preempt that now. We are doing a good job of it, but we still need to fight.

Evan Nappen 26:08

If you care about knives as much as you care about guns and our Second Amendment rights, I urge you to join and become a member of Knife Rights. (www.KnifeRights.org) My good friend, Doug Ritter, who has actually been on the show before, is the head of Knife Rights. I will tell you what else is going on with Knife Rights. They are running the Ultimate Steel. Right now. The Ultimate Steel is a huge raffle where you can get your choice of over \$125,000 in knives, guns and more. It is an awesome raffle that they use for fundraising, and I have been lucky in it. It is a good thing. Jump on donating to knife rights. This how they raise their money so they can keep up this great work in knife Liberty, and you can really end up with some nice prizes. So, look at the Ultimate Steel, go to KnifeRights.org.

Evan Nappen 27:20

We have got to stay in this important fight for our knife rights. We are actually having incredible success. One of the things that led to the success is the classic loophole (again, we can learn from this). Loopholes, having freedom find a way. So, what are some loopholes here that have actually made knife liberty and the general public having an appreciation for the advantage of a one-hand opening knife? It has to do with the advent of the assisted opener and the one-hand opener, and just how utilitarian and helpful having a folding knife that you can open with one hand. The assisted opener is also incredibly important because what the assistant opener does is when you push open a blade about 25 to 30% open, the spring inside continues the opening of the blade. If you have ever taken a folding knife, even like a Cub Scout knife or a Swiss Army knife, and you open it a certain degree not fully open, maybe 70% and you let it go, click, the blade still goes into place. Well, that is the principle of an assisted opener. Only instead of it happening at 70% open, it happens when you get 25 to 30%, and it continues with its opening.

Evan Nappen 29:02

Folks look and say, okay, that is a switchblade, but it is not a switchblade. In order to fall under the definition of switchblade, it has to have a button or other device in the handle that makes the blade open automatically. There is no button or other device in the handle. It is simply starting the blade, and then the blade finishes opening by itself. It is arguably the evolution of a better one-handed knife than even a classic switchblade in a way because without the button, you have less parts. It is simpler to make, and if for some reason the spring were to break, you can still open an assisted opener manually. If the button breaks with an automatic knife, you could have a problem getting that knife open. However, you would not with an assisted knife. Of course, most assisted knives do not lock closed where an automatic knife does lock close. So, these are tradeoffs.

Evan Nappen 30:12

Distinguishing between an assisted opener with a blade opening fast and an automatic knife with a blade opening fast, both being one-hand openers, the average person really would have a difficult time trying to distinguish why one of these is legal and one of them is not. Yet, the utilitarian value of the assisted opener which you can buy at Walmart even and generally everywhere, has become so accepted and has made the ban on switchblades that much more irrelevant and stupid. So that loophole, if you will, the workaround of avoiding the button in the handle has really led to an entire Liberty Movement of being able to repeal obsolete, stupid laws that infringe on our freedom. It is interesting to look at it from that perspective and just see how great it is.

Evan Nappen 31:14

I am proud to say that I helped when we changed the federal switchblade law, because they were assisted openers. Some folks, some states and even U.S. customs were looking at imported assisted openers and saying, "Oh, no, these are switchblades", but they were not because they did not have a button in the handle. Customs was trying to say they were, and Knife Rights and other groups got together, and we were able to get the Federal switchblade law changed for the first time since the 1950s. We were able to get added to the definition that assisted openers absolutely were not switchblades and not part of that definition. By changing that definition and making it crystal clear, Customs could no longer play the games they wanted to play on stopping the import, and assisted openers became quite plentiful in the US.

Evan Nappen 32:23

This is what we saw, and it has changed the whole mindset of the country. I know this is just knives, but it is a micro shot of how this all works. When you are a fighter for freedom and you want to see these laws change, the loophole can create and does create more freedom, more acceptance, and more understanding of the total elimination of the bar that is standing in the way of our freedoms. Knife rights is a great example of how that has worked. There are also loopholes in a way as to the ability to have, produce, and manufacture switchblades or automatic knives. I remember when I was 17 or 18, you were fortunate if you found an old Italian stiletto type switchblade or something somebody had brought back from Europe. You know, that was it. There was nothing domestically produced. They were rare, collectible, unless it was left over before the Federal ban.

Evan Nappen 33:43

Then suddenly, it seemed there was this growth that took place after the Delgado decision (State of Oregon v. Joseph Delgado, 692 P.2d 610 {1984}), where the Supreme Court of Oregon found that the Oregon Second Amendment protected knives and invalidated the switchblade prohibition. This started what became a domestic manufacturing business where we saw companies including Benchmade and others produce automatic knives. But how could they be sold when there is the Federal ban? Well, the Federal ban is not on possession of a switchblade. It is on the interstate commerce of the switchblade. The only places federally that ban possession are the Indian Territories. It actually says that in the law. I am not just calling them Indian Territories. Possession is not banned in the state just the interstate.

Evan Nappen 34:54

So how do you get from Oregon to another state with a switchblade that is regulated and controlled by Federal law? There is a way to do it because another law passed that had to do with mailing and shipping. An exemption was set up for bona fide dealers, law enforcement, and those with government contracts, particularly. By doing that, they were able to get distribution to the other States. This is really great as the number of both automatics and assisted openers, and knife freedom has marched along. It is something we can be proud of to see actual liberty growing. So, I'd like to tell you remember to support knife rights and joy and treasure are knives.

Evan Nappen 36:01

This is Evan Nappen reminding you that gun laws do not protect honest citizens from criminals. They protect criminals from honest citizens.

Speaker 3 36:10

Gun Lawyer is a CounterThink Media production The music used in this broadcast was managed by Cosmo Music, New York, New York. Reach us by emailing Evan@gun.lawyer. The information and opinions in this broadcast do not constitute legal advice. Consult a licensed attorney in your state.