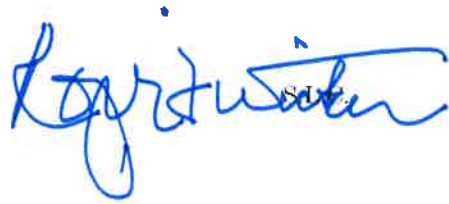


Wicker-1

HEN18741



AMENDMENT NO. _____ Calendar No. _____

Purpose: To improve the bill.

IN THE SENATE OF THE UNITED STATES—115th Cong., 2d Sess.

S. 1092

To protect the right of law-abiding citizens to transport knives interstate, notwithstanding a patchwork of local and State prohibitions.

Referred to the Committee on _____ and ordered to be printed

Ordered to lie on the table and to be printed

AMENDMENT intended to be proposed by Mr. WICKER

Viz:

- 1 Strike section 2 and insert the following:
- 2 **SEC. 2. INTERSTATE TRANSPORTATION OF KNIVES.**
- 3 (a) AUTHORIZATION.—
- 4 (1) IN GENERAL.—Notwithstanding any provi-
- 5 sion of any law or any rule or regulation of the
- 6 United States, or of a State or any political subdivi-
- 7 sion of a State, any person who is not otherwise pro-
- 8 hibited by Federal law from possessing, trans-
- 9 porting, shipping, or receiving a knife shall be enti-
- 10 tled to transport a knife from any place where such
- 11 person may lawfully possess, carry or transport such

1 a knife to any other place where such person may
2 lawfully possess, carry or transport such a knife if—

3 (A) in the case of transportation by motor
4 vehicle—

5 (i) the knife is not directly accessible
6 from the passenger compartment of the
7 motor vehicle; or

8 (ii) in the case of a motor vehicle
9 without a compartment separate from the
10 passenger compartment, the knife is con-
11 tained in a locked container, glove com-
12 partment, or console; or

13 (B) in the case of transportation by other
14 means (including any conveyance over land, on
15 or through water, or through the air), the knife
16 is contained in a locked container.

17 (2) TEMPORARY LODGING.—If a person is
18 transporting a knife in accordance with paragraph
19 (1), during a period the person is within any form
20 of temporary lodging, the knife may be accessible.

21 (b) EMERGENCY KNIVES.—Any knife or tool de-
22 signed for enabling escape in an emergency incorporating
23 a blunt tipped safety blade, a guarded blade, or both, for
24 cutting safety belts may be carried in the passenger com-
25 partment and need not be secured in a locked container,

1 glove compartment, or console. This subsection shall not
2 apply to the transport of any such knife or tool in the
3 passenger cabin of aircraft whose passengers are subject
4 to airport screening procedures of the Transportation Se-
5 curity Administration.

6 (c) NO ARREST OR DETENTION.—A person who is
7 transporting a knife in accordance with this section may
8 not be arrested or otherwise detained for violation of any
9 law or any rule or regulation of a State or any political
10 subdivision of a State related to the possession, transpor-
11 tation, or carrying of knives, unless there is probable cause
12 to believe that the person is not in compliance with at least
13 1 of the requirements of subsection (a).

14 (d) CLAIM OR DEFENSE.—A person may assert this
15 section as a claim or defense in any action or proceeding,
16 civil or criminal. If a person asserts this section as a claim
17 or defense in a criminal proceeding, the State or political
18 subdivision shall bear the burden of proving, beyond a rea-
19 sonable doubt, that the person was not in compliance with
20 subsection (a).

21 (e) RIGHT OF ACTION.—Any person who, under color
22 of any statute, ordinance, regulation, custom, or usage,
23 of any State or political subdivision of a State, subjects,
24 or causes to be subjected, any person to the deprivation
25 of the rights, privileges, or immunities set forth in this

1 section, shall be liable to the person so deprived in an ac-
2 tion at law, suit in equity, or other proper proceeding for
3 redress. If a person asserts this section as a claim or de-
4 fense, the court shall award the prevailing party (including
5 any party who receives a favorable resolution through a
6 decision by a court, settlement of a claim, withdrawal of
7 criminal charges, or change of a statute or regulation),
8 other than a State or any political subdivision of a State
9 or its employees or representatives, reasonable attorneys'
10 fees.

11 (f) DEFINITION.—As used in this section, the term
12 “transport”—

13 (1) includes staying in temporary lodging over-
14 night, common carrier misrouting or delays, stops
15 for food, fuel, vehicle maintenance, emergencies,
16 medical treatment, and all other activity related to
17 the person’s overall journey; and

18 (2) does not include any transportation of a
19 knife with—

20 (A) the intent to commit any offense pun-
21 ishable by imprisonment for a term exceeding 1
22 year involving the use or threatened use of force
23 against another; or

1 (B) knowledge, or reasonable cause to be-
2 lieve, that such an offense is to be committed
3 in the course of, or arising from, such journey.

4 (g) RULE OF CONSTRUCTION.—Nothing in this sec-
5 tion shall be construed to limit any right to possess, carry,
6 or transport a knife under applicable State law.

7 **SEC. 3. REPEAL OF FEDERAL PROVISIONS RELATED TO**
8 **SWITCHBLADE KNIVES.**

9 (a) REPEALS.—

10 (1) The Act entitled “An Act to prohibit the in-
11 troduction, or manufacture for introduction, into
12 interstate commerce of switchblade knives, and for
13 other purposes” (15 U.S.C. 1241 et seq.) (commonly
14 known as the Federal Switchblade Act), is repealed.

15 (2) Subsections (g) and (i) of section 1716, title
16 18, United States Code, are repealed.

17 (b) CONFORMING AMENDMENTS.—Chapter 83 of
18 title 18, United States Code, is amended—

19 (1) in section 1716, by redesignating sub-
20 sections (h), (j), and (k) as subsection (g), (h), and
21 (i), respectively; and

22 (2) in section 1716E(i), by striking “section
23 1716(k)” and inserting “section 1716(i)”.

24 (c) EFFECTIVE DATE.—The repeals made by sub-
25 section (a)—

1 (1) shall take effect on the date of enactment
2 of this Act; and

3 (2) do not apply with respect to any indictment,
4 convictions, sentencing, appeals, civil or criminal
5 fines or penalties obtained, forfeitures obtained,
6 terms of imprisonment or any other enforcement ac-
7 tions or proceedings occurring or commenced on or
8 before the date of enactment of this Act.