Legislation Details (With Text)

File #:	Res 1660-2017	**Version:** *	**Name:**	Gravity Knives (A.5667-A/S. 4769-A)	
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Attachments:	1. Assembly Bill, 2. Senate Bill, 3. September 27, 2017 - Stated Meeting Agenda with Links to Files, 4. Committee Report 10/16/17, 5. Hearing Testimony 10/16/17, 6. Hearing Transcript 10/16/17				

Date	Ver.	Action By	Action	Result
9/27/2017	*	City Council	Introduced by Council	
9/27/2017	*	City Council	Referred to Comm by Council	
10/2/2017	*	City Council	Re-referred to Committee by Council	
10/16/2017	*	Committee on Public Safety	Hearing Held by Committee	
10/16/2017	*	Committee on Public Safety	Laid Over by Committee	
12/31/2017	*	City Council	Filed (End of Session)	

Res. No. 1660

Resolution urging the Governor to sign into law A5667A/S4769A, in relation to gravity knives.

By Council Member Gibson

Whereas, Major retailers throughout New York State such as Walmart, Lowes, Ace Hardware, AutoZone, Benjamin Moore Paint, Dicks Sporting Goods, and Paragon Sports, as well as smaller local hardware stores sell thousands of folding knives that are designed and marketed as tools, not as illegal gravity knives; and

Whereas, Pursuant to Penal Law § 265.01(1), possessing a “gravity knife” is a Class A misdemeanor that carries a penalty of up to one year in jail; and

Whereas, Under P.L. § 265.02(1) if an alleged possessor of a gravity knife has ever previously been convicted of any felony or misdemeanor, possession is deemed a Class D felony, punishable by up to 7 years in

prison; and

Whereas, While gravity knives are illegal under the current law, the NYPD does not arrest retailers who possess and sell folding knives, but have arrested tens of thousands of New Yorkers who purchase them; and

Whereas, In 2010 the New York County District Attorney's Office (DANY) entered into deferred prosecution agreements with New York County retailers that were selling common folding knives that DANY claimed were illegal gravity knives; and

Whereas, Although the retailers were selling folding knives, not the gravity knives originally banned by the New York State Legislature, the retailers agreed to pay a total of 1.9 million dollars to defer prosecution; and

Whereas, None of the store managers or owners were arrested for possessing and selling what prosecutors and the NYPD considered illegal weapons; and

Whereas, Common folding knives continue to be available at major retailers and local hardware stores throughout New York City; and

Whereas, According to NYPD data, 86% of those arrested for possessing folding knives and charged with gravity knife possession in violation of Penal Law § 265.01(1) are black or Latino; and

Whereas, Such enforcement creates a disparity whereby NYPD treats folding knives as tools when displayed on the shelves of major retailers, but disproportionately as illegal weapons once in the hands of black and Latino New Yorkers; and

Whereas, According to NYPD arrest data, from 2000 to 2012, the police department made 69,999 arrests for alleged violations of Penal Law § 265.01(1), which criminalizes possession of a host of weapons including gravity knives; and

Whereas, The Legal Aid Society estimates that between 4,000 and 5,000 people are arrested in New York City every year for carrying a folding knife; and

Whereas, According to a 6-month sample of criminal complaints analyzed by The Legal Aid Society,

less than 2% of those arrested for criminal possession of a gravity knife were charged with intent to use the knife unlawfully against another; and

Whereas, Folding knives are regularly used by construction workers, electricians, stockpersons, handymen, and other tradesmen professions; and

Whereas, While almost all prosecutors in New York State stopped bringing gravity knife prosecutions under the current statue, New York City has not; and

Whereas, The District Attorneys Association of the State of New York, acknowledged that prosecutors outside of New York City have never prosecuted a gravity knife case or at least not prosecuted a gravity knife case in 30 years; and

Whereas, In New York city, police and prosecutors categorize ordinary folding knives as illegal gravity knives; and

Whereas, The NYPD employs a wrist-flick test to determine whether a knife constitutes an illegal gravity knife; and

Whereas, If a police officer can force a folding knife open with the flick of a wrist, a defendant is considered guilty of gravity knife possession, even though the knife is not designed to open in that manner; and

Whereas, More importantly, often the hinge on regular folding knives loosens overtime, which may cause the knife to open with a flick of the wrist; and

Whereas, A5667A/S4769A sponsored by Assembly Member Dan Quart and Senator Diane Savino, would amend Penal Law § 265.01 to redefine “gravity knife”; and

Whereas, A5667A/S4769A has passed in both the New York State Assembly and the New York State Senate; and

Whereas, Pursuant to A5667A/S4769A, gravity knives are defined as “any knife which has a blade which is released from the handle or sheath *solely* by the force of gravity when released” and is “locked in place by means of a button, spring, lever or other device”; and

Whereas, A5667A/S4769A would also remove the reference to the "application of centrifugal force" from the definition, ending the subjective wrist flick test and preventing ordinary knives from being deemed as illegal gravity knives; now, therefore, be it

Resolved, That the Council of the City of New York urges the Governor to sign into law A5667A/S4769A, in relation to gravity knives.

LS #10737
06/26/17
CMA