

**HOUSE BILL NO. 314**

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVES COGHILL, GATTO AND LYNN, Holm, Anderson, Wilson, Dahlstrom

Introduced: 1/9/06

Referred: Judiciary, Finance

**A BILL**

**FOR AN ACT ENTITLED**

1 **"An Act relating to defense of self, other persons, and property."**

2 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

3 \* **Section 1.** AS 09.65 is amended by adding a new section to read:

4 **Sec. 09.65.330. Immunity: use of defensive force.** (a) A person who uses  
5 force in defense of self, other persons, or property as permitted in AS 11.81 is immune  
6 from civil liability for the use of that force unless the person against whom force was  
7 used was a peace officer who was engaged in the performance of official duties and  
8 the officer identified the officer in accordance with any applicable law or the person  
9 using force knew or reasonably should have known that the person was a peace  
10 officer.

11 (b) The court shall award reasonable attorney fees, court costs, compensation  
12 for loss of income, and all expenses incurred by the defendant in defense of any civil  
13 action brought by a plaintiff if the court finds that the defendant is immune from  
14 liability under (a) of this section.

15 \* **Sec. 2.** AS 11.81.335 is amended to read:

1           **Sec. 11.81.335. Justification: Use of deadly force in defense of self.** (a)

2           Except as provided in (b) of this section, a person may use deadly force upon another  
3           person when and to the extent

4                       (1) the use of nondeadly force is justified under AS 11.81.330; and

5                       (2) the person reasonably believes the use of deadly force is necessary  
6           for self defense against death, serious physical injury, kidnapping, sexual assault,  
7           sexual abuse of a minor [IN THE FIRST DEGREE, SEXUAL ASSAULT IN THE  
8           SECOND DEGREE], or robbery in any degree.

9           (b) A person may not use deadly force under this section if the person knows  
10          to a certainty that, with complete personal safety and with complete safety as to  
11          others, the person can avoid the necessity of using deadly force by retreating, except  
12          there is no duty to retreat if the person is

13                      (1) any place where the person has a right to be [ON PREMISES  
14          WHICH THE PERSON OWNS OR LEASES] and the person is not the initial  
15          aggressor; or

16                      (2) a peace officer acting within the scope and authority of the officer's  
17          employment or a person assisting a peace officer under AS 11.81.380.

18   \* **Sec. 3.** AS 11.81.340 is amended by adding a new subsection to read:

19                      (b) Notwithstanding (a) of this section, a person may use deadly force upon  
20          another when and to the extent the person reasonably believes a child is in imminent  
21          threat of death, serious physical injury, kidnapping, sexual assault, sexual abuse of a  
22          minor, or robbery in any degree.

23   \* **Sec. 4.** AS 11.81.350 is amended by adding a new subsection to read:

24                      (e) A person

25                      (1) in a motor vehicle may use deadly force upon another when and to  
26          the extent the person reasonably believes it is necessary to terminate what the person  
27          reasonably believes to be a carjacking of that motor vehicle;

28                      (2) outside of a motor vehicle may use deadly force upon another when  
29          and to the extent the person reasonably believes it is necessary to terminate what the  
30          person reasonably believes to be the theft of that motor vehicle when another person,  
31          other than the perceived offender, is inside of the vehicle.