

HOUSE BILL NO. 320

IN THE LEGISLATURE OF THE STATE OF ALASKA
TWENTY-FOURTH LEGISLATURE - SECOND SESSION

BY REPRESENTATIVE GATTO

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.