

**HOUSE CS FOR CS FOR SENATE BILL NO. 200(JUD)**  
**IN THE LEGISLATURE OF THE STATE OF ALASKA**  
**TWENTY-FOURTH LEGISLATURE - SECOND SESSION**

**BY THE HOUSE JUDICIARY COMMITTEE**

**Offered: 4/6/06**  
**Referred: Finance**

**Sponsor(s): SENATORS THERRIAULT, Dyson, Huggins**

**REPRESENTATIVES Stoltze, Meyer, Holm, Kelly, Foster**

**A BILL**

**FOR AN ACT ENTITLED**

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

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 not  
6 liable for the death of or injury to the person against whom the force was intended to  
7 be used, unless the person against whom force was used was

8 (1) a peace officer, whether on or off duty, who was engaged in the  
9 performance of official duties;

10 (2) a fire fighter, emergency medical technician, or paramedic engaged  
11 in the performance of official duties; or

12 (3) medical personnel, a health care provider, or a first responder in an  
13 emergency situation.

14 (b) The court shall award reasonable attorney fees, court costs, compensation  
15 for loss of income, and all expenses incurred by the defendant in defense of a civil

1 action brought by a plaintiff if the court finds that the defendant is not liable under (a)  
2 of this section.

3 \* **Sec. 2.** AS 11.81.330 is amended to read:

4 **Sec. 11.81.330. Justification: Use of nondeadly force in defense of self.** (a)

5 A person **is justified in using** [MAY USE] nondeadly force upon another when and to  
6 the extent the person reasonably believes it is necessary for **self-defense** [SELF  
7 DEFENSE] against what the person reasonably believes to be the use of unlawful  
8 force by the other **person**, unless

9 (1) **the person used** the force **in** [INVOLVED WAS THE PRODUCT  
10 OF] mutual combat not authorized by law;

11 (2) the person claiming **self-defense** [THE DEFENSE OF  
12 JUSTIFICATION] provoked the other's conduct with intent to cause physical injury to  
13 the other;

14 (3) the person claiming **self-defense** [THE DEFENSE OF  
15 JUSTIFICATION] was the initial aggressor; [OR]

16 (4) the force **used** [APPLIED] was the result of using a deadly weapon  
17 **or dangerous instrument** the person claiming **self-defense** [THE DEFENSE OF  
18 JUSTIFICATION] possessed while

19 (A) acting alone or with others to further a felony criminal  
20 objective of the person or one or more other persons; [OR]

21 (B) a participant in a felony transaction or purported  
22 transaction or in immediate flight from a felony transaction or purported  
23 transaction in violation of AS 11.71;

24 **(C) acting alone or with others in revenge for, retaliation**  
25 **for, or response to actual or perceived conduct by a rival or perceived**  
26 **rival, or a member or perceived member of a rival group, if the person**  
27 **using deadly force, or the group on whose behalf the person is acting, has**  
28 **a history or reputation for violence among civilians; or**

29 **(D) the weapon used by the person was a firearm that was**  
30 **illegal under state or federal law for the person to possess as a result of a**  
31 **conviction for a felony.**

1 (b) **A** [IN CIRCUMSTANCES DESCRIBED IN (a)(1) - (a)(3) OF THIS  
 2 SECTION, THE] person **who is not justified in using force in self-defense in the**  
 3 **circumstances listed in (a)(1) - (3) of this section is justified in using** [CLAIMING  
 4 THE DEFENSE OF JUSTIFICATION MAY USE NONDEADLY] force **in self-**  
 5 **defense** if that person has withdrawn from the encounter and effectively  
 6 communicated the withdrawal to the other person, but the other person persists in  
 7 continuing the incident by the use of unlawful force.

8 \* **Sec. 3.** AS 11.81.335 is amended to read:

9 **Sec. 11.81.335. Justification: Use of deadly force in defense of self.** (a)  
 10 Except as provided in (b) of this section, a person **who is justified in using**  
 11 **nondeadly force in self-defense under AS 11.81.330** may use deadly force **in self-**  
 12 **defense** upon another person when and to the extent

13 [(1) THE USE OF NONDEADLY FORCE IS JUSTIFIED UNDER  
 14 AS 11.81.330; AND

15 (2)] the person reasonably believes the use of deadly force is necessary  
 16 for **self-defense** [SELF DEFENSE] against

17 **(1)** death;

18 **(2)** [,] serious physical injury;

19 **(3)** [,] kidnapping, **except for what is described as custodial**  
 20 **interference in the first degree in AS 11.41.320;**

21 **(4)** sexual assault in the first degree;

22 **(5)** [,] sexual assault in the second degree;

23 **(6)** [,] **sexual abuse of a minor in the first degree;** or

24 **(7)** robbery in any degree.

25 (b) A person may not use deadly force under this section if the person knows  
 26 that, with complete personal safety and with complete safety as to others **being**  
 27 **defended**, the person can avoid the necessity of using deadly force by **leaving the**  
 28 **area of the encounter** [RETREATING], except there is no duty to **leave the area**  
 29 [RETREAT] if the person is

30 (1) on premises

31 **(A) that** [WHICH] the person owns or leases;

1 **(B) where the person resides, temporarily or permanently;**

2 **or**

3 **(C) as a guest or express or implied agent of the owner,**

4 **lessor, or resident** [AND THE PERSON IS NOT THE INITIAL  
5 AGGRESSOR]; [OR]

6 (2) a peace officer acting within the scope and authority of the officer's  
7 employment or a person assisting a peace officer under AS 11.81.380;

8 **(3) in a building where the person works in the ordinary course of**  
9 **the person's employment; or**

10 **(4) protecting a child or a member of the person's household.**

11 \* **Sec. 4.** AS 11.81.340 is amended to read:

12 **Sec. 11.81.340. Justification: Use of force in defense of a third person.** A  
13 person **is justified in using** [MAY USE] force upon another when and to the extent  
14 the person reasonably believes it is necessary to defend a third person when, under the  
15 circumstances as the person claiming **defense of another** [THE DEFENSE OF  
16 JUSTIFICATION] reasonably believes them to be, the third person would be justified  
17 under AS 11.81.330 or 11.81.335 in using that degree of force for **self-defense** [SELF  
18 DEFENSE].

19 \* **Sec. 5.** AS 11.81.350(c) is amended to read:

20 (c) A person in possession or control of any premises, or **a guest or** an express  
21 or implied agent of that person, may use

22 (1) nondeadly force upon another when and to the extent the person  
23 reasonably believes it is necessary to terminate what the person reasonably believes to  
24 be the commission or attempted commission by the other of criminal trespass in any  
25 degree upon the premises;

26 (2) deadly force upon another when and to the extent the person  
27 reasonably believes it is necessary to terminate what the person reasonably believes to  
28 be a burglary in any degree occurring in an occupied dwelling or building.

29 \* **Sec. 6.** AS 11.81.350 is amended by adding new subsections to read:

30 (e) A person

31 (1) in a vehicle, or forcibly removed from a vehicle, may use deadly

1 force upon another when and to the extent the person reasonably believes it is  
2 necessary to terminate what the person reasonably believes to be a carjacking of that  
3 vehicle at or about the time the vehicle is carjacked;

4 (2) outside of a vehicle may use deadly force upon another when and  
5 to the extent the person reasonably believes it is necessary to terminate what the  
6 person reasonably believes to be the theft of that vehicle when another person, other  
7 than the perceived offender, is inside of the vehicle; this paragraph does not apply to a  
8 person outside of a vehicle who is involved in a dispute with a person inside of the  
9 vehicle who is a household member of that person; in this paragraph, "household  
10 member" has the meaning given in AS 18.66.990.

11 (f) A person justified in using force under this section does not have a duty to  
12 leave or attempt to leave the area of the encounter before using force.

13 (g) In (e) of this section, "carjacking" means a robbery involving the taking or  
14 attempted taking of a vehicle from a person in possession of the vehicle; "vehicle"  
15 means a "motor vehicle" as defined in AS 28.40.100, an aircraft, or a watercraft.

16 \* **Sec. 7.** AS 11.81.350(d) is repealed.