

HOUSE BILL NO. 381

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

BY REPRESENTATIVES NEUMAN, Stoltze, Peggy Wilson, Keller, Ramras, Tammie Wilson, Olson, Kelly

Introduced: 2/23/10

Referred: Judiciary, Finance

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to self defense."**

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

3 *** Section 1.** AS 11.81.335(b) is amended to read:

4 (b) A person may not use deadly force under this section if the person knows
5 that, with complete personal safety and with complete safety as to others being
6 defended, the person can avoid the necessity of using deadly force by leaving the area
7 of the encounter, except there is no duty to leave the area if the person is

8 (1) on premises

9 (A) that the person owns or leases;

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

11 (C) as a guest or express or implied agent of the owner, lessor,

12 or resident;

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

15 (3) in a building where the person works in the ordinary course of the

1 person's employment; [OR]

2 (4) protecting a child or a member of the person's household;

3 **(5) in a vehicle that the person owns or leases or uses or occupies**
 4 **with the consent of the owner; or**

5 **(6) in any place where the person has a right to be.**

6 * **Sec. 2.** AS 11.81 is amended by adding a new section to read:

7 **Sec. 11.81.355. Prima facie evidence regarding use of deadly force under**
 8 **AS 11.81.335 - 11.81.350; additional probable cause determination for arrest. (a)**

9 The following are prima facie evidence that a person's belief that the use of deadly
 10 force under AS 11.81.335 - 11.81.350 was reasonable:

11 (1) the person against whom the deadly force was used was in the
 12 process of committing, or had committed, a burglary of a dwelling and the person
 13 using the deadly force knew or had reason to believe that a burglary was occurring or
 14 had occurred;

15 (2) the person against whom the deadly force was used was in the
 16 process of committing, or had committed, a carjacking of an occupied vehicle and the
 17 person using the deadly force knew or had reason to believe that a carjacking was
 18 occurring or had occurred;

19 (3) the person against whom the deadly force was used was in the
 20 process of kidnapping, or had kidnapped,

21 (A) a person from a dwelling or an occupied vehicle and the
 22 person using the deadly force knew or had reason to believe that a kidnapping
 23 was occurring or had occurred; or

24 (B) a child or household member of the person using the deadly
 25 force and the person using the deadly force knew or had reason to believe that
 26 a kidnapping was occurring or had occurred.

27 (b) The prima facie evidence described in this section does not apply if

28 (1) the person against whom the force was used, as described in (a)(1)
 29 of this section, was the owner or lawful resident of the dwelling;

30 (2) the person against whom the force was used, as described in (a)(2)
 31 of this section, was the owner or lawfully entitled to possession of the vehicle;

1 (3) the person against whom the force was used was a peace officer,
2 acting within the scope and authority of the officer's employment and the officer either

3 (A) identified themselves in accordance with any applicable
4 law; or

5 (B) the person using the force knew or reasonably should have
6 known that the person was a peace officer;

7 (4) the person using the force is engaged in an unlawful activity or is
8 using the dwelling or occupied vehicle to further an unlawful activity.

9 (c) A law enforcement agency may use standard procedures for investigating
10 the use of force, but the law enforcement agency may not arrest a person for using
11 force as permitted by AS 11.81.335 - 11.81.350 unless the agency determines that
12 there is probable cause that the force that was used was unlawful.

13 (d) In this section, "carjacking" has the meaning given in AS 11.81.350.