

HOUSE BILL NO. HB0168

Stand your ground-2.

Sponsored by: Representative(s) Salazar, Allen, Barlow, Biteman, Blackburn, Blake, Brown, Burkhart, Clausen, Clem, Court, Edwards, Eklund, Gray, Haley, Halverson, Harshman, Henderson, Hunt, Jennings, Larsen, Laursen, Lindholm, Lone, Loucks, Miller, Northrup, Olsen, Piiparinen, Steinmetz, Stith and Winters and Senator(s) Baldwin, Barnard, Bouchard, Coe, Dockstader, Driskill, Hicks, Kinskey, Landen, Moniz and Wasserburger

A BILL

for

1 AN ACT relating to crimes and civil liability; revising
2 provisions relating to the use of defensive force in
3 response to injury or loss; providing immunity from
4 criminal and civil liability for specified uses of
5 defensive force; specifying that no duty to retreat
6 generally exists; providing for an award of costs and fees
7 in response to a civil lawsuit relating to the use of
8 defensive force; making conforming amendments; and
9 providing for an effective date.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

1

2 **Section 1.** W.S. 7-2-109 is created to read:

3

4 **7-2-109. Immunity for use of defensive force;**
5 **preconditions for arrest when defensive force is used.**

6

7 (a) A person may use defensive force in order to
8 prevent an injury or loss to himself or another person,
9 consistent with W.S. 6-2-602. A person who uses such
10 defensive force shall be immune from arrest, detention,
11 charge, citation or prosecution for using such force.

12

13 (b) A peace officer may use standard procedures for
14 investigating the use of defensive force, but shall not
15 arrest a person for using defensive force unless the peace
16 officer determines that there is probable cause that the
17 person did not believe the defensive force was necessary to
18 prevent an injury or loss to himself or another person
19 before taking defensive action, consistent with W.S.
20 6-2-602.

21

22 (c) A person who uses defensive force may be wrong in
23 his estimation of the danger or the force necessary to

1 repel the danger as long as the person had a good faith
2 belief that defensive force was necessary to prevent an
3 injury or loss to himself or another person before using
4 the defensive force, consistent with W.S. 6-2-602.

5

6 (d) A person arrested or prosecuted who believes that
7 he is entitled to immunity under subsection (a) of this
8 section may file a motion with the court asserting that he
9 used defensive force and is immune from prosecution under
10 subsection (a) of this section, consistent with W.S.
11 6-2-602. Upon filing of the motion, the court shall, as
12 soon as possible, hold a hearing and grant the motion
13 unless the party seeking to overcome the immunity in
14 subsection (a) of this section proves beyond a reasonable
15 doubt that the person did not have a good faith belief that
16 defensive force was necessary to prevent an injury or loss
17 to himself or another person.

18

19 (e) As used in this section, "defensive force" means
20 as defined in W.S. 6-2-602(d)(iii).

21

1 **Section 2.** W.S. 6-1-204 and 6-2-602(a) (intro), (d) by
2 creating a new paragraph (iii) and by creating a new
3 subsection (e) are amended to read:

4
5 **6-1-204. Immunity from civil action for justifiable**
6 **use of force; costs and attorney fees.**

7
8 (a) Except as provided by W.S. 6-1-103(a), a person
9 who uses ~~force as reasonably necessary in defense of his~~
10 ~~person, property or abode or to prevent injury to another~~
11 defensive force, consistent with W.S. 6-2-602, to prevent
12 an injury or loss to himself or another person is immune
13 from civil action for the use of the force, including any
14 civil forfeiture action brought by the state of Wyoming.

15
16 (b) A person who uses defensive force may be wrong in
17 his estimation of the danger or the force necessary to
18 repel the danger as long as the person had a good faith
19 belief that defensive force was necessary to prevent an
20 injury or loss to himself or another person before taking
21 defensive action, consistent with W.S. 6-2-602.

22

1 (c) In a civil action filed against a person relating
2 to a person's use of defensive force, the person may file a
3 motion with the court asserting that the person used
4 defensive force, consistent with W.S. 6-2-602, and is
5 immune from liability under subsection (a) of this section.
6 Upon filing of the motion the court shall, as soon as
7 possible, hold a hearing and grant the person's motion
8 unless the party seeking to overcome the immunity in
9 subsection (a) of this section proves beyond a reasonable
10 doubt that the person did not have a good faith belief that
11 defensive force was necessary to prevent an injury or loss
12 to himself or another person.

13
14 (d) A court shall award reasonable attorney fees,
15 court costs, compensation for any loss of income and all
16 other expenses incurred by a person in defense of any civil
17 action arising from a person's use of defensive force,
18 consistent with W.S. 6-2-602, if the court finds that the
19 defendant is immune from civil action under subsection (a)
20 of this section.

21
22 (e) As used in this section, "defensive force" means
23 as defined in W.S. 6-2-602(d)(iii).

1

2 **6-2-602. Use of force in self defense; definitions;**
3 **no duty to retreat.**

4

5 (a) Among other situations which a court may
6 consider, a person is presumed to have held a reasonable
7 fear—good faith belief of imminent peril of death or
8 serious bodily injury to himself or another when using
9 defensive force that is intended or likely to cause death
10 or serious bodily injury to another if:

11

12 (d) As used in this section:

13

14 (iii) "Defensive force" means the threatened or
15 actual use of force that a person, in good faith, deems to
16 be necessary to prevent an injury or loss to himself or
17 another person, and can include deadly force if such force
18 is necessary to prevent imminent peril of death or serious
19 bodily injury, or it is reasonable to believe that such
20 force is necessary to resist a like force or threat.

21

22 (e) A person who is not engaged in illegal activity
23 has no duty to retreat from any place where the person is

1 lawfully present before using defensive force. A finder of
2 fact shall not consider the possibility of retreat as a
3 factor in determining whether a person who used defensive
4 force had a good faith belief that the defensive force was
5 necessary.

6

7 **Section 3.** This act is effective July 1, 2018.

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9

(END)