
A BILL FOR AN ACT

RELATING TO THE USE OF DEADLY FORCE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 663, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§663- Exception to liability for use of deadly force
5 for the protection of a primary dwelling. Any actor who uses
6 deadly force in accordance with section 703- shall be immune
7 from civil liability for injuries or damages, or both, resulting
8 from the use of that deadly force."

9 SECTION 2. Chapter 703, Hawaii Revised Statutes, is
10 amended by adding a new section to be appropriately designated
11 and to read as follows:

12 "§703- Use of deadly force for the protection of a
13 primary dwelling. (1) Notwithstanding any other provision of
14 law, the use of deadly force upon or toward the person of
15 another is justifiable when the actor uses deadly force to
16 defend the actor's primary dwelling, provided that the person
17 against whom the deadly force is used:



- 1 (a) Has entered the actor's primary dwelling without
- 2 invitation;
- 3 (b) Is inside the actor's primary dwelling at the time the
- 4 actor uses deadly force; and
- 5 (c) Is not a law enforcement officer who enters the
- 6 dwelling in the performance of the officer's official
- 7 duties."

8 SECTION 3. Section 663-1.57, Hawaii Revised Statutes, is
 9 repealed.

10 ~~["§663-1.57] Owner to felon; limited liability. (a) An~~
 11 ~~owner, including but not limited to a public entity, of any~~
 12 ~~estate or any other interest in real property, whether~~
 13 ~~possessory or nonpossessory, or any agent of the owner lawfully~~
 14 ~~on the premises by consent of the owner, shall not be liable to~~
 15 ~~any perpetrator engaged in any of the felonies set forth in~~
 16 ~~subsection (b) for any injury or death to the perpetrator that~~
 17 ~~occurs upon that property during the course of or after the~~
 18 ~~commission of such felony, or when a reasonable person would~~
 19 ~~believe that commission of a felony as set forth in subsection~~
 20 ~~(b) is imminent; provided that if the perpetrator is injured,~~
 21 ~~the perpetrator is charged with the criminal offense and~~



1 ~~convicted of the criminal offense or of a lesser included felony~~
2 ~~or misdemeanor.~~

3 ~~(b) This section applies to the following felonies:~~

4 ~~(1) Murder in the first or second degree;~~

5 ~~(2) Attempted murder in the first or second degree;~~

6 ~~(3) Any class A felony as provided in the Hawaii Penal~~
7 ~~Code, including any attempt or conspiracy to commit a~~
8 ~~crime classified as a class A felony;~~

9 ~~(4) Any class B felony involving violence or physical harm~~
10 ~~as provided in the Hawaii Penal Code;~~

11 ~~(5) Any felony punishable by imprisonment for life;~~

12 ~~(6) Any other felony in which the person inflicts serious~~
13 ~~bodily injury on another person; and~~

14 ~~(7) Any felony in which the person personally used a~~
15 ~~firearm or a dangerous or deadly weapon.~~

16 ~~(c) The limitation on liability under this section arises:~~

17 ~~(1) At the moment the perpetrator commences the felony to~~
18 ~~which this section applies; or~~

19 ~~(2) At the moment the owner or agent of the owner lawfully~~
20 ~~on the premises by consent of the owner believes that~~
21 ~~a commission of a felony under subsection (b) is~~
22 ~~imminent;~~



1 ~~and extends to the moment the perpetrator is no longer upon the~~
2 ~~property.~~

3 ~~(d) The limitation on liability under this section applies~~
4 ~~only when the perpetrator's conduct in furtherance of the~~
5 ~~commission of a felony specified in subsection (b) proximately~~
6 ~~or legally causes the injury or death.~~

7 ~~(e) This section does not limit the liability of an owner~~
8 ~~that otherwise exists for:~~

9 ~~(1) Wilful, wanton, or criminal conduct; or~~

10 ~~(2) Wilful or malicious failure to guard or warn against a~~
11 ~~dangerous condition, use, or structure; or~~

12 ~~(3) Injury or death caused to individuals other than the~~
13 ~~perpetrator of the felony.~~

14 ~~(f) Except with regard to [subsections] (e) (1) and (e) (3),~~
15 ~~the limitation of liability under this section shall not be~~
16 ~~affected by the failure of the owner to warn the perpetrator of~~
17 ~~the felony that the owner is armed and ready to cause bodily~~
18 ~~harm or death.~~

19 ~~(g) For purposes of this section, "owner" means the owner,~~
20 ~~the occupant, tenant, or anyone authorized to be on the property~~
21 ~~by the owner or the occupant, including a guest or a family or~~



1 ~~household member, employee, or agent of the owner lawfully on~~
2 ~~the premises.~~

3 ~~(h) The limitation on liability provided by this section~~
4 ~~shall be in addition to any other available defense."]~~

5 SECTION 4. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval.

8

INTRODUCED BY:

Calvin K. Day

B/R

JAN 18 2013



Report Title:

Justification; Use of Deadly Force

Description:

Allows the use of deadly force when protecting one's primary dwelling against an intruder who enters the primary dwelling without invitation. Exempts the actor from civil liability for injuries or damages resulting from the use of deadly force. Repeals section 663-1.57, HRS.

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