

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; establishing
2 and modifying when defensive force can be used;
3 establishing when the opportunity to retreat may be
4 considered; providing immunity from criminal or civil
5 liability for reasonable use of defensive force; providing
6 for an award of costs if a civil lawsuit is filed as
7 specified; providing a definition; and providing for an
8 effective date.

9

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

11

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

2

3 **7-2-109. Immunity for reasonable use of defensive**
4 **force; preconditions for arrest when defensive force is**
5 **used.**

6

7 (a) A person who uses reasonable defensive force
8 pursuant to W.S. 6-2-602 shall be immune from any arrest,
9 detention, charging, citation or prosecution for using
10 defensive force.

11

12 (b) A peace officer may use standard investigating
13 procedures for investigating the use of defensive force but
14 shall not arrest a person for using defensive force unless
15 the peace officer determines that there is probable cause
16 that the defensive force was not reasonable under W.S.
17 6-2-602.

18

19 (c) A person who uses reasonable defensive force may
20 be wrong in his estimation of the danger or the force
21 necessary to repel the danger as long as there is a
22 reasonable basis for the belief of the person and the
23 person acts reasonably in the response to that belief.

1

2 (d) A person arrested or prosecuted who believes that
3 he is entitled to immunity under subsection (a) of this
4 section may file a motion with the court asserting that the
5 person used reasonable defensive force under W.S. 6-2-602.
6 Upon the filing of the motion the court shall hold a
7 hearing prior to trial and shall 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 use reasonable defensive
11 force under W.S. 6-2-602.

12

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

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17 **6-1-204. Immunity from civil action for justifiable**
18 **use of force; attorney fees.**

19

20 (a) Except as provided by W.S. 6-1-103(a), a person
21 who uses ~~force as reasonably necessary in defense of his~~
22 ~~person, property or abode or to prevent injury to another~~

1 reasonable defensive force pursuant to W.S. 6-2-602 is
2 immune from civil action for the use of the force.

3
4 (b) A person who uses reasonable defensive force may
5 be wrong in his estimation of the danger or the force
6 necessary to repel the danger as long as there is a
7 reasonable basis for the belief of the person and the
8 person acts reasonably in the response to that belief.

9
10 (c) In a civil action filed against a person related
11 to the person's use of defensive force, the person may file
12 a motion with the court asserting that the person used
13 reasonable defensive force under W.S. 6-2-602. Upon the
14 filing of the motion the court shall hold a hearing prior
15 to trial and shall grant the person's motion unless the
16 party seeking to overcome the immunity in subsection (a) of
17 this section proves by clear and convincing evidence that
18 the person did not use reasonable defensive force under
19 W.S. 6-2-602.

20
21 (d) A court shall award reasonable attorney fees,
22 court costs, compensation for any loss of income and all
23 other expenses incurred by a person in defense of any civil

1 action arising from the person's use of reasonable force
2 pursuant to W.S. 6-2-602 if the court finds that the
3 defendant is immune from civil action under subsection (a)
4 of this section.

5
6 **6-2-602. Use of force in self defense; no duty to**
7 **retreat.**

8
9 (d) As used in this section:

10
11 (iii) "Reasonable defensive force" means the
12 threatened or actual use of force that a reasonable person
13 in like circumstances would judge to be necessary to
14 prevent an injury or loss, and no more, and can include
15 deadly force if such force is necessary to prevent death or
16 serious bodily injury to himself or another, or it is
17 reasonable to believe that such force is necessary to
18 resist a like force or threat. Reasonable defensive force
19 does not include force used or threatened:

20
21 (A) Against a peace officer or employee of
22 the Wyoming department of corrections who enters or

1 attempts to enter another's home, habitation or vehicle in
2 the performance of his official duties;

3
4 (B) By a person engaged in criminal
5 activity or is using a home, habitation or vehicle in
6 furtherance of a criminal activity;

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8 (C) Against a person who has a right to be
9 in or is a lawful resident of the home or habitation, such
10 as an owner, lessee or titleholder, and there is not an
11 injunction for protection from domestic violence or a
12 written pretrial supervision order of no contact against
13 that person; or

14
15 (D) Against a person who seeks to remove
16 from a home or habitation a child, grandchild or person who
17 is otherwise in the lawful custody or under the lawful
18 guardianship of that person.

19
20 (e) A person who is not engaged in illegal activity
21 has no duty to retreat from any place where the person is
22 lawfully present before using reasonable defensive force as
23 defined in paragraph (d)(iii) of this section. A finder of

1 fact shall not be permitted to consider the possibility of
2 retreat as a factor in determining whether a person who
3 used reasonable defensive force reasonably believed that
4 the force was necessary to prevent death or serious bodily
5 injury to himself or another.

6

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

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(END)