

House Bill 2795

Sponsored by Representative THATCHER (Pre-session filed.)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Provides that person who is legally present in any place is not liable for failing to retreat from attacker. Allows person to use against attacker defensive force intended or likely to cause death or great bodily harm if person reasonably believes that force is necessary to prevent death or great bodily harm, or to prevent commission of felony involving use of force.

Establishes presumption that person has reasonable belief that use of defensive force is necessary to prevent death or great bodily harm when person killed or injured was unlawfully and forcefully entering or attempting to enter dwelling or vehicle, or was removing or attempting to remove person against person's will from dwelling or vehicle. Provides exceptions to application of presumption.

A BILL FOR AN ACT

1
2 Relating to liability.

3 **Be It Enacted by the People of the State of Oregon:**

4 **SECTION 1. (1) A person who is legally present in any place is not liable for failing to**
5 **retreat from an attacker, and may use against an attacker defensive force that is intended**
6 **or likely to cause death or great bodily harm if the person reasonably believes that use of**
7 **the force is necessary to prevent death or great bodily harm to any person, or to prevent the**
8 **commission of a felony involving the use of force.**

9 **(2) For the purposes of subsection (1) of this section, a person is presumed to have a**
10 **reasonable belief that use of defensive force is necessary to prevent death or great bodily**
11 **harm if:**

12 **(a) The person killed or injured was unlawfully and forcefully entering or attempting to**
13 **enter a dwelling or vehicle, or was removing or attempting to remove a person against the**
14 **person's will from a dwelling or vehicle; and**

15 **(b) The person using defensive force knew or had reason to believe that the person killed**
16 **or injured was engaged in one or more of the acts described in paragraph (a) of this sub-**
17 **section.**

18 **(3) The presumption established in subsection (2) of this section does not apply if:**

19 **(a) The person killed or injured had a right to be present in the dwelling or vehicle;**

20 **(b) The person killed or injured was trying to remove a child or grandchild or other**
21 **person in the lawful custody of the person;**

22 **(c) The person using defensive force was engaged in an unlawful activity, or was using**
23 **the dwelling or vehicle to further an unlawful activity, at the time the defensive force was**
24 **used; or**

25 **(d) The person killed or injured is a law enforcement officer who entered or attempted**
26 **to enter the dwelling or vehicle in the performance of official duties, and the person using**
27 **defensive force knew or reasonably should have known that the person entering or at-**

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 **tempting to enter the dwelling or vehicle was a law enforcement officer.**

2 **SECTION 2. Section 1 of this 2011 Act applies only to conduct that occurs on or after the**
3 **effective date of this 2011 Act.**

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