

House Bill 2999

Sponsored by Representatives KRIEGER, BARKER (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**.

Authorizes persons engaged in lawful activity to stand ground and use force in self-defense.

Establishes civil and criminal presumption that use of deadly physical force is lawful under specified circumstances. Authorizes court to award costs and fees to person using force if civil action results and plaintiff fails to overcome presumption.

A BILL FOR AN ACT

1
2 Relating to use of physical force; creating new provisions; and amending ORS 161.219 and 166.220.

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

4 **SECTION 1.** ORS 161.219 is amended to read:

5 161.219. (1) Notwithstanding the provisions of ORS 161.209, a person is not justified in using
6 deadly physical force upon another person unless the person reasonably believes that the other
7 person is:

8 *[(1)]* (a) Committing or attempting to commit a felony involving the use or threatened imminent
9 use of physical force against a person; *[or]*

10 *[(2)]* (b) Committing or attempting to commit a burglary in a dwelling; *[or]*

11 *[(3)]* (c) Using or about to use unlawful deadly physical force against a person*[,]*; **or**

12 **(d) Otherwise engaging in conduct described in subsection (2) of this section.**

13 **(2) A person is presumed to reasonably believe that deadly physical force is necessary**
14 **under subsection (1)(b) of this section if the person reasonably believes that the person**
15 **against whom the force is used has unlawfully and forcibly entered a dwelling or is at-**
16 **tempting to do so.**

17 **(3) The presumption described in subsection (2) of this section does not apply if the per-**
18 **son against whom force is used:**

19 **(a) Has the right to be in the dwelling, such as an owner, lessee or titleholder, and there**
20 **is not an injunction for protection from domestic violence or a written pretrial order of no**
21 **contact against the person; or**

22 **(b) Is a law enforcement officer, as defined in ORS 133.726, entering or attempting to**
23 **enter a dwelling in the performance of official duties and the person using force knows or**
24 **reasonably should know that the person entering or attempting to enter the dwelling is a law**
25 **enforcement officer.**

26 **(4) As used in this section, "dwelling" has the meaning given that term in ORS 164.205.**

27 **SECTION 2.** Section 3 of this 2011 Act is added to and made a part of ORS 161.195 to
28 **161.275.**

29 **SECTION 3.** A person has no duty to retreat and may stand the person's ground and
30 **meet force with force, including deadly physical force, if:**

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 (1) **The person is not engaged in unlawful activity; and**

2 (2) **The use of force is otherwise justified by ORS 161.195 to 161.275.**

3 **SECTION 4.** ORS 166.220 is amended to read:

4 166.220. (1) A person commits the crime of unlawful use of a weapon if the person:

5 (a) Attempts to use unlawfully against another, or carries or possesses with intent to use un-
6 lawfully against another, any dangerous or deadly weapon as defined in ORS 161.015; or

7 (b) Intentionally discharges a firearm, blowgun, bow and arrow, crossbow or explosive device
8 within the city limits of any city or within residential areas within urban growth boundaries at or
9 in the direction of any person, building, structure or vehicle within the range of the weapon without
10 having legal authority for such discharge.

11 (2) This section does not apply to:

12 (a) Police officers or military personnel in the lawful performance of their official duties;

13 (b) Persons lawfully defending life or property as provided in ORS [161.219] **161.195 to 161.275;**

14 (c) Persons discharging firearms, blowguns, bows and arrows, crossbows or explosive devices
15 upon public or private shooting ranges, shooting galleries or other areas designated and built for
16 the purpose of target shooting;

17 (d) Persons lawfully engaged in hunting in compliance with rules and regulations adopted by the
18 State Department of Fish and Wildlife; or

19 (e) An employee of the United States Department of Agriculture, acting within the scope of
20 employment, discharging a firearm in the course of the lawful taking of wildlife.

21 (3) Unlawful use of a weapon is a Class C felony.

22 **SECTION 5. (1) The presumption described in ORS 161.219 applies in a civil action**
23 **brought against the person using force and, if unrebutted, is a complete defense in the**
24 **action.**

25 **(2) When a plaintiff fails to overcome the presumption described in subsection (1) of this**
26 **section, the court shall award reasonable attorney fees, court costs, compensation for loss**
27 **of income and all other expenses incurred by the civil defendant.**

28 **SECTION 6. Sections 3 and 5 of this 2011 Act and the amendments to ORS 161.219 and**
29 **166.220 by sections 1 and 4 of this 2011 Act apply to conduct occurring on or after the effec-**
30 **tive date of this 2011 Act.**

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