

PUBLIC CHAPTER NO. 210**HOUSE BILL NO. 1907**

By Representatives Rinks, McDonald, Curtis Johnson, Fincher, Hardaway, Dean, Litz, Pitts, Bibb, Bone, Baird, Mike Turner, Moore, Sargent, Roach, Matheny, Bass, Eldridge, Ulysses Jones, Hood, Fraley, Pruitt, McManus, Coleman, Maddox, Miller, Fitzhugh, Campfield, DuBois, Bell, Hensley, Ferguson, Mumpower, Hill, Favors, Sontany, Yokley, Hawk, Odom, Hackworth, Coley, Williams, Phillip Johnson, Watson, Ford, Dunn, Tidwell, Lollar, Niceley, McCormick, Montgomery, Rowland, Lundberg, Floyd, Maggart, Harrison, Armstrong, Harry Brooks, McDaniel, Jim Cobb

Substituted for: Senate Bill No. 11

By Senator Jackson and Mr. Speaker Ramsey and Senators Norris, Tracy, Kilby, Marrero, Stanley, Beavers, Black, Bunch, Burchett, Burks, Cooper, Crowe, Crutchfield, Lowe Finney, Raymond Finney, Ford, Harper, Haynes, Henry, Herron, Johnson, Ketron, Kurita, Kyle, McNally, Southerland, Tate, Watson, Wilder, Williams, Woodson

AN ACT to amend Tennessee Code Annotated, Title 39, Chapter 11, Part 6, relative to the use of self defense and deadly force.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 39-11-611, is amended by deleting the section in its entirety and substituting instead the following:

(a) As used in this section:

(1) "Curtilage" means the area surrounding a dwelling that is necessary, convenient and habitually used for the family purposes and for those activities associated with the sanctity of a person's home.

(2) "Dwelling" means a building or conveyance of any kind, including any attached porch, whether the building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it, including a tent, and is designed for or capable of use by people.

(3) "Residence" means a dwelling in which a person resides either temporarily or permanently, or is visiting as an invited guest, or any dwelling, building or other appurtenance within the curtilage of such residence.

(4) "Vehicle" means any motorized vehicle that is self-propelled and designed for use on public highways to transport people or property.

(b)

(1) Notwithstanding the provisions of § 39-17-1322, a person who is not engaged in unlawful activity and is in a place where such person has a right to be has no duty to retreat before threatening or using force against another person when and to the degree the person reasonably believes the force is immediately necessary to protect against the other's use or attempted use of unlawful force.

(2) Notwithstanding the provisions of § 39-17-1322, a person who is not engaged in unlawful activity and is in a place where such person has a right to be has no duty to retreat before threatening or using force intended or likely to cause death or serious bodily injury if:

(A) The person has a reasonable belief that there is an imminent danger of death or serious bodily injury;

(B) The danger creating the belief of imminent death or serious bodily injury is real, or honestly believed to be real at the time; and

(C) The belief of danger is founded upon reasonable grounds.

(c) Any person using force intended or likely to cause death or serious bodily injury within a residence, dwelling or vehicle is presumed to have held a reasonable belief of imminent death or serious bodily injury to self, family, a member of the household or a person visiting as an invited guest when that force is used against another person, who unlawfully and forcibly enters or has unlawfully and forcibly entered the residence, dwelling or vehicle, and the person using defensive force knew or had reason to believe that an unlawful and forcible entry occurred.

(d) The presumption established in subsection (c) shall not apply if:

(1) The person against whom the force is used has the right to be in or is a lawful resident of the dwelling, residence, or vehicle, such as an owner, lessee, or titleholder, provided such person is not prohibited from entering the dwelling, residence, or occupied vehicle by an order of protection, injunction for protection from domestic abuse, or a court order of no contact against that person;

(2) The person against whom the force is used is attempting to remove a person or persons who is a child or grandchild of, or is otherwise in the lawful custody or under the lawful guardianship of, the person against whom the defensive force is used;

(3) Notwithstanding the provisions of § 39-17-1322, the person using force is engaged in an unlawful activity or is using the dwelling, residence, or occupied vehicle to further an unlawful activity; or

(4) The person against whom force is used is a law enforcement officer, as defined in § 39-11-106(21), who enters or attempts to enter a

dwelling, residence, or vehicle in the performance of his or her official duties, and the officer identified himself or herself in accordance with any applicable law, or the person using force knew or reasonably should have known that the person entering or attempting to enter was a law enforcement officer.

(e) The threat or use of force against another is not justified:

(1) If the person using force consented to the exact force used or attempted by the other individual;

(2) If the person using force provoked the other individual's use or attempted use of unlawful force, unless:

(A) The person using force abandons the encounter or clearly communicates to the other the intent to do so; and

(B) The other person nevertheless continues or attempts to use unlawful force against the person; or

(3) To resist a halt at a roadblock, arrest, search, or stop and frisk that the person using force knows is being made by a law enforcement officer, unless:

(A) The law enforcement officer uses or attempts to use greater force than necessary to make the arrest, search, stop and frisk, or halt; and

(B) The person using force reasonably believes that the force is immediately necessary to protect against the law enforcement officer's use or attempted use of greater force than necessary.

SECTION 3. Tennessee Code Annotated, Title 39, Chapter 11, Part 6, is amended by adding the following new § 39-11-622:

(a)

(1) A person who uses force as permitted in §§ 39-11-611-- 39-11-614, or § 29-34-201, is justified in using such force and is immune from civil liability for the use of such force, unless:

(A) The person against whom force was used is a law enforcement officer, as defined in § 39-11-106(21) who:

(i) Was acting in the performance of his or her official duties; and

(ii) Identified himself or herself in accordance with any applicable law; or

(iii) The person using force knew or reasonably should have known that the person was a law enforcement officer; or

(B) The force used by the person resulted in property damage to or the death or injury of an innocent bystander or other person against whom the force used was not justified.

(b) The court shall award reasonable attorney's fees, court costs, compensation for loss of income, and all expenses incurred by a person in defense of any civil action brought against such person based upon the person's use of force if the court finds that the defendant was justified in using such force pursuant to §§ 39-11-611--- 39-11-614, or § 29-34-201.

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.

PASSED: May 3, 2007



JIMMY NAIFEH, SPEAKER
HOUSE OF REPRESENTATIVES



RON RAMSEY, SPEAKER
SENATE OF THE SENATE

APPROVED this 22nd day of May 2007



PHIL BREDESEN, GOVERNOR