

First Regular Session  
Sixty-sixth General Assembly  
STATE OF COLORADO

INTRODUCED

LLS NO. 07-0181.01 Richard Sweetman

HOUSE BILL 07-1011

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HOUSE SPONSORSHIP

Gardner C.,

SENATE SPONSORSHIP

Harvey, and Schultheis

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House Committees  
Judiciary

Senate Committees

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A BILL FOR AN ACT

101 CONCERNING THE USE OF PHYSICAL FORCE AGAINST AN INTRUDER.

Bill Summary

*(Note: This summary applies to this bill as introduced and does not necessarily reflect any amendments that may be subsequently adopted.)*

Creates a presumption that an occupant who uses deadly physical force against an intruder has a reasonable fear of imminent death or serious bodily injury to himself or herself or another person. Sets forth conditions under which the presumption does not apply.

Adds vehicles and places of business to the locations in which the presumption applies.

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Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.  
*Capital letters indicate new material to be added to existing statute.*  
*Dashes through the words indicate deletions from existing statute.*

1 *Be it enacted by the General Assembly of the State of Colorado:*

2 **SECTION 1.** 18-1-704.5, Colorado Revised Statutes, is amended  
3 to read:

4 **18-1-704.5. Use of deadly physical force against an intruder.**

5 (1) The general assembly hereby recognizes that the citizens of Colorado  
6 have a right to expect absolute safety within their own ~~homes~~ DWELLINGS,  
7 PLACES OF BUSINESS, AND VEHICLES.

8 (1.5) AS USED IN THIS SECTION, "VEHICLE" MEANS ANY DEVICE OF  
9 CONVEYANCE CAPABLE OF MOVING ITSELF OR OF BEING MOVED FROM  
10 PLACE TO PLACE UPON WHEELS OR TRACK OR BY WATER OR AIR, WHETHER  
11 OR NOT INTENDED FOR THE TRANSPORT OF PERSONS OR PROPERTY, AND  
12 INCLUDES ANY PLACE THEREIN ADAPTED FOR OVERNIGHT  
13 ACCOMMODATION OF PERSONS OR ANIMALS OR FOR THE CARRYING ON OF  
14 BUSINESS.

15 (2) Notwithstanding the provisions of section 18-1-704, any  
16 occupant of a dwelling, PLACE OF BUSINESS, OR VEHICLE is justified in  
17 using any degree of physical force, including deadly physical force,  
18 against another person when that other person has made an unlawful entry  
19 into the dwelling, PLACE OF BUSINESS, OR VEHICLE, and ~~when~~ the  
20 occupant ~~has a reasonable belief that such other person has committed a~~  
21 ~~crime in the dwelling in addition to the uninvited entry, or is committing~~  
22 ~~or intends to commit a crime against a person or property in addition to~~  
23 ~~the uninvited entry, and when the occupant reasonably believes that such~~  
24 ~~other person might use any physical force, no matter how slight, against~~  
25 ~~any occupant~~ HOLDS A REASONABLE FEAR THAT THE OTHER PERSON  
26 CREATES AN IMMINENT PERIL OF DEATH OR SERIOUS BODILY INJURY TO  
27 THE OCCUPANT OR A THIRD PERSON. AN OCCUPANT OF A DWELLING,

1 PLACE OF BUSINESS, OR VEHICLE IS PRESUMED TO HAVE HELD A  
2 REASONABLE FEAR OF IMMINENT PERIL OF DEATH OR SERIOUS BODILY  
3 INJURY TO HIMSELF OR HERSELF OR A THIRD PERSON WHEN USING  
4 PHYSICAL FORCE THAT IS INTENDED OR LIKELY TO CAUSE DEATH OR  
5 SERIOUS BODILY HARM TO ANOTHER IF:

6 (a) THE PERSON AGAINST WHOM THE PHYSICAL FORCE WAS USED  
7 WAS IN THE PROCESS OF UNLAWFULLY AND FORCIBLY ENTERING, OR HAD  
8 UNLAWFULLY AND FORCIBLY ENTERED, THE DWELLING, PLACE OF  
9 BUSINESS, OR VEHICLE, OR IF THAT PERSON HAD UNLAWFULLY REMOVED,  
10 OR WAS ATTEMPTING TO UNLAWFULLY REMOVE, ANOTHER PERSON  
11 AGAINST THAT PERSON'S WILL FROM THE DWELLING, PLACE OF BUSINESS,  
12 OR VEHICLE; AND

13 (b) THE OCCUPANT KNEW OR HAD REASON TO BELIEVE THAT AN  
14 UNLAWFUL AND FORCIBLE ENTRY OR UNLAWFUL AND FORCIBLE ACT WAS  
15 OCCURRING.

16 (2.5) THE PRESUMPTION SET FORTH IN SUBSECTION (2) OF THIS  
17 SECTION DOES NOT APPLY IF:

18 (a) THE PERSON AGAINST WHOM PHYSICAL FORCE IS USED HAS A  
19 RIGHT TO BE IN THE DWELLING, PLACE OF BUSINESS, OR VEHICLE OR IS A  
20 LAWFUL RESIDENT OF THE DWELLING, SUCH AS AN OWNER, LESSEE, OR  
21 TITLEHOLDER, AND THERE IS NOT A PROTECTION ORDER, AS DEFINED IN  
22 SECTION 13-14-101 (2.4), C.R.S., ISSUED AGAINST THAT PERSON;

23 (b) THE PERSON SOUGHT TO BE REMOVED IS A CHILD OR  
24 GRANDCHILD OF, OR IS OTHERWISE IN THE LAWFUL CUSTODY OR UNDER  
25 THE LAWFUL GUARDIANSHIP OF, THE PERSON AGAINST WHOM THE  
26 PHYSICAL FORCE IS USED; OR

27 (c) THE OCCUPANT IS ENGAGED IN AN UNLAWFUL ACTIVITY OR IS

1 USING THE DWELLING, PLACE OF BUSINESS, OR VEHICLE TO FURTHER AN  
2 UNLAWFUL ACTIVITY.

3 (3) Any occupant of a dwelling, PLACE OF BUSINESS, OR VEHICLE  
4 using physical force, including deadly physical force, in accordance with  
5 the provisions of subsection (2) of this section shall be immune from  
6 criminal prosecution for the use of such force.

7 (4) Any occupant of a dwelling, PLACE OF BUSINESS, OR VEHICLE  
8 using physical force, including deadly physical force, in accordance with  
9 the provisions of subsection (2) of this section shall be immune from any  
10 civil liability for injuries or death resulting from the use of such force.

11 **SECTION 2. Effective date.** This act shall take effect at 12:01  
12 a.m. on the day following the expiration of the ninety-day period after  
13 final adjournment of the general assembly that is allowed for submitting  
14 a referendum petition pursuant to article V, section 1 (3) of the state  
15 constitution, (August 8, 2007, if adjournment sine die is on May 9, 2007);  
16 except that, if a referendum petition is filed against this act or an item,  
17 section, or part of this act within such period, then the act, item, section,  
18 or part, if approved by the people, shall take effect on the date of the  
19 official declaration of the vote thereon by proclamation of the governor.