

SENATE BILL NO. 1229

101ST GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN.

5851S.011

ADRIANE D. CROUSE, Secretary

AN ACT

To repeal sections 563.011 and 563.031, RSMo, and to enact in lieu thereof two new sections relating to the use of self-defense.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 563.011 and 563.031, RSMo, are repealed and two new sections enacted in lieu thereof, to be known as sections 563.011 and 563.031, to read as follows:

563.011. As used in this chapter the following terms shall mean:

(1) "Armed nuclear security guard", a security guard who works at a nuclear power plant, who is employed as part of the security plan approved by the United States Nuclear Regulatory Commission, and who meets the requirements mandated by the United States Nuclear Regulatory Commission for carrying a firearm;

(2) "**Curtilage**", the land immediately surrounding a house, residence, or dwelling, including any closely associated buildings or structures;

(3) "Deadly force", physical force which the actor uses with the purpose of causing or which he or she knows to create a substantial risk of causing death or serious physical injury;

[(3)] (4) "Dwelling", any building, inhabitable structure, or conveyance of any kind, whether the building, inhabitable structure, or conveyance is temporary or

EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 permanent, mobile or immobile, which has a roof over it,
20 including a tent, and is designed to be occupied by people
21 lodging therein at night;

22 [(4)] (5) "Forcible felony", any felony involving the
23 use or threat of physical force or violence against any
24 individual, including but not limited to murder, robbery,
25 burglary, arson, kidnapping, assault, and any forcible
26 sexual offense;

27 [(5)] (6) "Premises", includes any building,
28 inhabitable structure and any real property;

29 [(6)] (7) "Private person", any person other than a
30 law enforcement officer;

31 [(7)] (8) "Private property", any real property in
32 this state that is privately owned or leased;

33 [(8)] (9) "Remain after unlawfully entering", to
34 remain in or upon premises after unlawfully entering as
35 defined in this section;

36 [(9)] (10) "Residence", a dwelling in which a person
37 resides either temporarily or permanently or is visiting as
38 an invited guest;

39 [(10)] (11) "Structure or fenced yard", any structure,
40 fenced yard, wall, building, other similar barrier, or any
41 combination of the foregoing that is located on the real
42 property of a nuclear power plant and that is posted with
43 signage indicating it is a felony to trespass;

44 [(11)] (12) "Unlawfully enter", a person unlawfully
45 enters in or upon premises or private property when he or
46 she enters such premises or private property and is not
47 licensed or privileged to do so. A person who, regardless
48 of his or her purpose, enters in or upon private property or
49 premises that are at the time open to the public does so
50 with license unless he or she defies a lawful order not to

51 enter, personally communicated to him or her by the owner of
52 such premises or by another authorized person. A license to
53 enter in a building that is only partly open to the public
54 is not a license to enter in that part of the building that
55 is not open to the public.

563.031. 1. A person may, subject to the provisions
2 of subsection 2 of this section, use physical force upon
3 another person when and to the extent he or she reasonably
4 believes such force to be necessary to defend himself or
5 herself or a third person from what he or she reasonably
6 believes to be the use or imminent use of unlawful force by
7 such other person, unless:

8 (1) The actor was the initial aggressor; except that
9 in such case his or her use of force is nevertheless
10 justifiable provided:

11 (a) He or she has withdrawn from the encounter and
12 effectively communicated such withdrawal to such other
13 person but the latter persists in continuing the incident by
14 the use or threatened use of unlawful force; or

15 (b) He or she is a law enforcement officer and as such
16 is an aggressor pursuant to section 563.046; or

17 (c) The aggressor is justified under some other
18 provision of this chapter or other provision of law;

19 (2) Under the circumstances as the actor reasonably
20 believes them to be, the person whom he or she seeks to
21 protect would not be justified in using such protective
22 force;

23 (3) The actor was attempting to commit, committing, or
24 escaping after the commission of a forcible felony.

25 2. A person shall not use deadly force upon another
26 person under the circumstances specified in subsection 1 of
27 this section unless:

28 (1) He or she reasonably believes that such deadly
29 force is necessary to protect himself, or herself or her
30 unborn child, or another against death, serious physical
31 injury, or any forcible felony;

32 (2) Such force is used against a person who unlawfully
33 enters, remains after unlawfully entering, or attempts to
34 unlawfully enter a dwelling, **including the curtilage of the**
35 **dwelling**, residence, or vehicle lawfully occupied by such
36 person; or

37 (3) Such force is used against a person who unlawfully
38 enters, remains after unlawfully entering, or attempts to
39 unlawfully enter private property that is owned or leased by
40 an individual, or is occupied by an individual who has been
41 given specific authority by the property owner to occupy the
42 property, claiming a justification of using protective force
43 under this section.

44 3. A person does not have a duty to retreat:

45 (1) From a dwelling, residence, or vehicle where the
46 person is not unlawfully entering or unlawfully remaining;

47 (2) From private property that is owned or leased by
48 such individual; or

49 (3) If the person is in any other location such person
50 has the right to be.

51 4. The justification afforded by this section extends
52 to the use of physical restraint as protective force
53 provided that the actor takes all reasonable measures to
54 terminate the restraint as soon as it is reasonable to do so.

55 5. The defendant shall have the burden of injecting
56 the issue of justification under this section. If a
57 defendant asserts that his or her use of force is described
58 under subdivision (2) of subsection 2 of this section, the
59 burden shall then be on the state to prove beyond a

60 reasonable doubt that the defendant did not reasonably
61 believe that the use of such force was necessary to defend
62 against what he or she reasonably believed was the use or
63 imminent use of unlawful force.

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