

JAN 18 2013

A BILL FOR AN ACT

RELATING TO CIVIL LIABILITY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 663, Hawaii Revised Statutes, is
2 amended by adding a new section to be appropriately designated
3 and to read as follows:

4 "§663-A Justification; limited liability. (a) A person
5 who is not engaged in an unlawful activity and who justifiably
6 uses force, as set forth in sections 703-302 through 703-309,
7 shall not be liable to any perpetrator engaged in any of the
8 felonies set forth in subsection (b) for any injury or death to
9 the perpetrator that occurs during the course of or after the
10 commission of such felony, or when a reasonable person would
11 believe that commission of a felony as set forth in subsection
12 (b) is imminent; provided that if the perpetrator is injured,
13 the perpetrator is charged with the criminal offense and
14 convicted of the criminal offense or of a lesser included felony
15 or misdemeanor.

16 (b) This section applies to the following felonies:

17 (1) Murder in the first or second degree;

18 (2) Attempted murder in the first or second degree;



- 1 (3) Any class A felony as provided in the Hawaii Penal
- 2 Code, including any attempt or conspiracy to commit a
- 3 crime classified as a class A felony;
- 4 (4) Any class B felony involving violence or physical harm
- 5 as provided in the Hawaii Penal Code;
- 6 (5) Any felony punishable by imprisonment for life;
- 7 (6) Any other felony in which the person inflicts serious
- 8 bodily injury on another person; and
- 9 (7) Any felony in which the person personally used a
- 10 firearm or a dangerous or deadly weapon.
- 11 (c) The limitation on liability under this section arises:
- 12 (1) At the moment the perpetrator commences the felony to
- 13 which this section applies; or
- 14 (2) At the moment the person believes that a commission of
- 15 a felony under subsection (b) is imminent.
- 16 (d) The limitation on liability under this section applies
- 17 only when the perpetrator's conduct in furtherance of the
- 18 commission of a felony specified in subsection (b) proximately
- 19 or legally causes the injury or death.
- 20 (e) This section does not limit the liability of an owner
- 21 that otherwise exists for:
- 22 (1) Wilful, wanton, or criminal conduct; or



1 (2) Wilful or malicious failure to guard or warn against a
2 dangerous condition, use, or structure; or
3 (3) Injury or death caused to individuals other than the
4 perpetrator of the felony.

5 (f) Except with regard to subsections (e)(1) and (e)(3),
6 the limitation of liability under this section shall not be
7 affected by the failure of the person to warn the perpetrator of
8 the felony that the person is armed and ready to cause bodily
9 harm or death.

10 (g) The limitation on liability provided by this section
11 shall be in addition to any other available defense."

12 SECTION 2. Section 703-301, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§703-301 Justification a defense; civil remedies**

15 [**unaffected**]. (1) In any prosecution for an offense,
16 justification, as defined in sections 703-302 through 703-309,
17 is a defense.

18 (2) The fact that conduct is justifiable under this
19 chapter [~~does not~~] shall abolish [~~or impair~~] any remedy for such
20 conduct which is available in any civil action[~~-~~] only to the
21 extent provided within section 663-A."



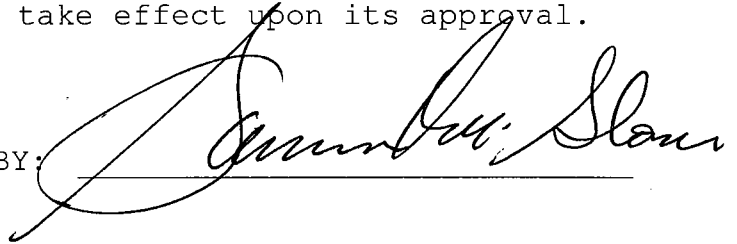
1 SECTION 3. In codifying the new sections added by section
2 1 of this Act, the revisor of statutes shall substitute
3 appropriate section numbers for the letters used in designating
4 the new sections in this Act.

5 SECTION 4. Statutory material to be repealed is bracketed
6 and stricken. New statutory material is underscored.

7 SECTION 5. This Act shall take effect upon its approval.

8

INTRODUCED BY:





S.B. NO. 293

Report Title:

Civil Liability; Limitation; Justification; Use of Force

Description:

Provides that the use of force, justifiable as a defense under sections 703-302 through 703-309 of the Penal Code, shall limit a person's civil liability as to a perpetrator who suffers injury or death; provided that, if injured, the offender is ultimately convicted of a crime.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

