

JAN 23 2015

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.

5 (a) A person who is not engaged in an unlawful activity and
6 who justifiably uses force, as set forth in sections 703-302
7 through 703-309, shall not be liable in tort to any perpetrator
8 engaged in any of the felonies set forth in subsection (b) for
9 any injury or death to the perpetrator that occurs during the
10 commission of such felony, provided that the perpetrator is
11 convicted of the criminal offense as charged, or of a lesser
12 included felony or misdemeanor committed contemporaneously with
13 the use of force.

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

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

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



1 (3) Any class A felony as provided in the Hawaii
2 Penal Code, including any attempt or conspiracy to
3 commit a crime classified as a class A felony;

4 (4) Any class B felony involving violence or physical
5 harm 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
8 serious bodily injury on another person; and

9 (7) Any felony involving the use of a firearm or
10 deadly weapon.

11 (c) The limitation on liability under this section arises:

12 (1) At the moment the perpetrator commences the
13 felony to which this section applies; or

14 (2) At the moment the person believes that a
15 commission of a felony under subsection (b) is
16 imminent.

17 (d) The limitation on liability under this section applies
18 only when the perpetrator's conduct in furtherance of the
19 commission of a felony specified in subsection (b) proximately
20 or legally causes the injury or death.

21 (e) This section does not limit the liability for:

22 (1) Willful, wanton, or criminal conduct; or



1 (2) Willful or malicious failure to guard or warn
2 against a dangerous condition, use, or structure; or
3 (3) Injury or death caused to individuals other than
4 the 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[~~-~~] to the extent
21 provided within section 663-A."



S.B. NO. 936

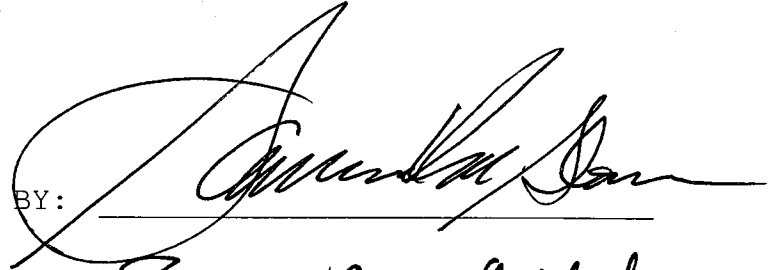
1 SECTION 3. In codifying the new sections added by section
 2 1 of this Act, the reviser of statutes shall substitute
 3 appropriate section numbers for the letters used in designating
 4 the new sections in this Act.

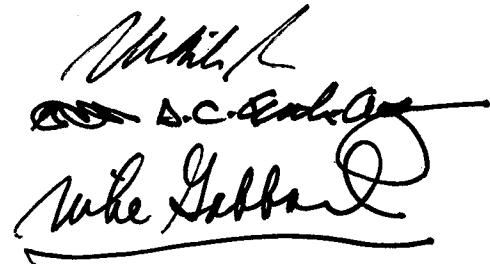
5 SECTION 4. Statutory material to be repealed is bracketed
 6 and stricken. New statutory material is underscored.

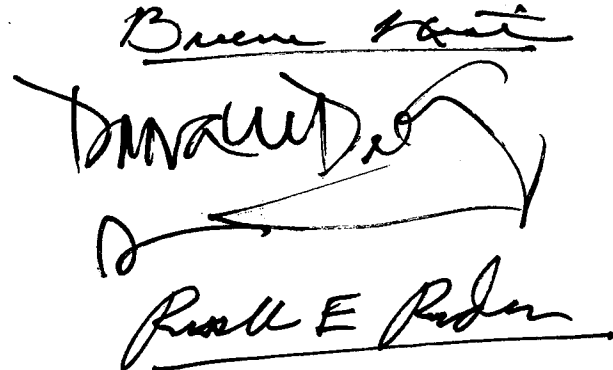
7 SECTION 5. This Act shall take effect upon its approval.

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INTRODUCED BY:


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S.B. NO. 936

Report Title:

Civil Liability; Limitation; Justification; Use of Force

Description:

Provides for the defense of justification for the use of force, under sections 703-302 through 703-309 of the Penal Code, precluding civil liability to an injured perpetrator convicted of the underlying crime or lesser included offense.

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

