

Regular Session, 2014

HOUSE BILL NO. 325

BY REPRESENTATIVES LOPINTO AND STOKES AND SENATOR GUILLORY

CRIME: Amends provisions of law regarding justification in the use of force or violence

1 AN ACT

2 To amend and reenact R.S. 14:19(A) and 20(A)(4)(a) and (B)(introductory paragraph),  
3 relative to the justifiable use of force or violence; to provide that the use of force or  
4 violence is justified in certain circumstances; to provide that the justification applies  
5 when the conflict began; to provide for technical changes; and to provide for related  
6 matters.

7 Be it enacted by the Legislature of Louisiana:

8 Section 1. R.S. 14:19(A) and 20(A)(4)(a) and (B)(introductory paragraph) are hereby  
9 amended and reenacted to read as follows:

10 §19. Use of force or violence in defense

11 A.(1) The use of force or violence upon the person of another is justifiable  
12 when either of the following occur:

13 (a) ~~when~~ When committed for the purpose of preventing a forcible offense  
14 against the person or a forcible offense or trespass against property in a person's  
15 lawful possession, provided that the force or violence used must be reasonable and  
16 apparently necessary to prevent such offense;

17 (b)(i) When committed by a person lawfully inside a dwelling, a place of  
18 business, or a motor vehicle as defined in R.S. 32:1(40) when the conflict began,  
19 against a person who is attempting to make an unlawful entry into the dwelling,  
20 place of business, or motor vehicle, or who has made an unlawful entry into the

1 dwelling, place of business, or motor vehicle, and the person using the force or  
2 violence reasonably believes that the use of force or violence is necessary to prevent  
3 the entry or to compel the intruder to leave the dwelling, place of business, or motor  
4 vehicle.

5 (ii) The provisions of this Paragraph shall not apply when the person using  
6 the force or violence is engaged, at the time of the use of force or violence in the  
7 acquisition of, the distribution of, or possession of, with intent to distribute a  
8 controlled dangerous substance in violation of the provisions of the Uniform  
9 Controlled Dangerous Substances Law.

10 ~~and that~~(2) The provisions of this Section shall not apply where the force or  
11 violence results in a homicide.

12 \* \* \*

13 §20. Justifiable homicide

14 A. A homicide is justifiable:

15 \* \* \*

16 (4)(a) When committed by a person lawfully inside a dwelling, a place of  
17 business, or a motor vehicle as defined in R.S. 32:1(40); when the conflict began,  
18 against a person who is attempting to make an unlawful entry into the dwelling,  
19 place of business, or motor vehicle, or who has made an unlawful entry into the  
20 dwelling, place of business, or motor vehicle, and the person committing the  
21 homicide reasonably believes that the use of deadly force is necessary to prevent the  
22 entry or to compel the intruder to leave the ~~premises~~ dwelling, place of business, or  
23 motor vehicle.

24 \* \* \*

25 B. For the purposes of this Section, there shall be a presumption that a  
26 person lawfully inside a dwelling, place of business, or motor vehicle held a  
27 reasonable belief that the use of deadly force was necessary to prevent unlawful  
28 entry thereto, or to compel an unlawful intruder to leave the ~~premises~~ dwelling, place

1 of business, or motor vehicle; when the conflict began, if both of the following  
2 occur:  
3 \* \* \*

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

Lopinto HB No. 325

**Abstract:** Provides that force or violence is justified when committed against an intruder to compel him to leave or to stop his attempt to enter a dwelling, business, or motor vehicle.

Present law provides for justification in the use of force or violence when committed for the purpose of preventing a forcible offense against the person or a forcible offense or trespass against property in a person's lawful possession, provided that the force or violence used must be reasonable and apparently necessary to prevent such offense.

Proposed law retains the provisions of present law and further provides that the use of force is justified when committed by a person lawfully inside a dwelling, a place of business, or a motor vehicle when the conflict began, against a person who is attempting to make an unlawful entry into the dwelling, place of business, or motor vehicle, or who has made an unlawful entry into the dwelling, place of business, or motor vehicle, and the person using the force or violence reasonably believes that the use of force or violence is necessary to prevent the entry or to compel the intruder to leave the dwelling, place of business, or motor vehicle.

Proposed law adds "when the conflict began" as an element of justifiable homicide.

Present law uses the word "premises" in certain places.

Proposed law changes "premises" to "dwelling, place of business, or motor vehicle".

(Amends R.S. 14:19(A) and 20(A)(4)(a) and (B)(intro. para.))