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THE "SHOOT FIRST" BILL

LICENSING AND IMMUNIZING PARANOID VIOLENCE

The National Rifle Association says it wants to bring a law recently passed in Florida to many more states, starting with Michigan

Imagine, if you will, the times in your life when you've been afraid of another human being: A motorist who threatened you on the highway, a group of teenagers who threatened you on a street corner, a homeless man who harassed you and called you names for refusing to give him spare change, a drunk in a bar who tries to pick a fight.

Now imagine that you killed all those people. Imagine that everyone killed all the people that ever gave them a nervous adrenalin rush.

Welcome to Florida starting October 1, 2005, and Michigan in the near future if the National Rifle Association has its way.

"Governor Bush made a huge mistake signing this law, which threatens to enable every rogue with an itchy trigger finger in Florida," said Sarah Brady, Chair of the Brady Campaign to Prevent Gun Violence. "Deciding whether to use deadly force in a public place is something that experienced law enforcement professionals know should never be taken lightly. I am going to do everything I can to convince Michigan's legislators to reject this dangerous special interest bill."

What others have said

Numerous Florida police chiefs opposed the law, including leaders like Chief John F. Timoney of the Miami Police Department, Chief William Berger of the Palm Bay Police Department (a former President of the International Association of Chiefs of Police), St. Petersburg police Chief Chuck Harmon and Broward County Sheriff Ken Jenne.

"The law isn't age specific, it's not intent-specific," Harmon said. "Can a sixth-grader retaliate against a bully? If you're in a bar and you've been drinking, maybe you think you've been threatened, but what about your judgment in those cases? I just think the citizenry could misinterpret this law."

Willie Meggs, president of the Florida Prosecuting Attorneys Association, said "we're concerned that it will provide a defense to someone who uses force that doesn't necessarily have to be done."

A Miami Herald editorial read: "The Protection of Persons and Property bill passed by the Legislature Tuesday is an example of what passes for governance in our state when too many lawmakers read from the same page in the Book of Political Cowardice. In this case, the page that was copied into law was written by the National Rifle Association... it is a license to use deadly force when none is needed. It also will create situations where innocent people – bystanders – will be injured or killed."

Detroit Free Press columnist Nichole Christian wrote: "You have to wonder whether the Florida Legislature has lost its mind... What a nightmare Florida could have on its hands after empowering victims of road rage, robbery or domestic disputes to make instant life-and-death decisions. It's the sort of insanity that makes one cherish the miles separating us from them. Write that off as Florida's problem, if you want. But be forewarned: The NRA is already eyeing other states for similar efforts."

A Brief Legal Analysis

The Shoot First Law is an invitation to reckless use of guns in the streets of our cities and towns. Without the law, people carrying firearms in public places could use those guns against perceived threats only as a last resort. The new law eliminates a citizen's duty to avoid the threat, and allows the use of deadly force before other options. Below is some legal context to the new Shoot First statute. It is not a comprehensive analysis of all laws on this subject, or all the situations that may arise under the law.

The Duty to Retreat

According to a leading legal text, "It is a well-established rule that in order to justify or excuse a homicide on the ground of self defense, the slayer must have employed all means in his power, consistent with his own safety, to avoid danger and avert the necessity of taking another's life in order to protect himself." AmJur Homicide, Section 161. A person threatened other than in his own home or place of business is not justified in taking the life of the assailant, if a safe avenue of retreat is open to him. AmJur Homicide, Section 163.

The New Florida Law

The new Florida Shoot First law eliminates the duty to retreat and allows a person not engaged in unlawful activity who is attacked in a public place to "stand his or her ground" and use deadly force if "he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or to another person or to prevent the commission of a forcible felony." Thus, even if the shooter could have safely avoided the threat by walking away or seeking refuge elsewhere, the Shoot First law permits him to shoot the assailant and gives him immunity from criminal prosecution and civil suit if he does so.

The Florida statute was passed over the strong objections of law enforcement officials and prosecutors. Broward County Sheriff Ken Jenne opposed the law because "it's easy to say after the fact, I felt threatened." Willie Meggs, President of the Florida Prosecuting Attorneys Association, said prosecutors are "concerned that it will provide a defense to someone who uses force that doesn't necessarily have to be done."

Seeking Out Danger

Under the "Shoot First" law, as long as the shooter "is not engaged in unlawful activity" and is "attacked in any other place where he or she has a right to be" the shooter has the right to use deadly force. Therefore, if a fistfight escalates to lethal violence, the shooter could receive immunity under the law even if he initiated the confrontation, as long as he "reasonably believed" that firing the gun was necessary to prevent a "forcible felony" or "great bodily harm" to himself.

Sweeping Immunity for Negligent Shooters

The Shoot First law provides for broad immunity from civil suits and criminal prosecution for shooters who reasonably believed the use of deadly force was necessary to prevent bodily harm or prevent a forcible felony. Nothing in the law would preserve the right of an innocent bystander who was shot in the incident to pursue a civil action against the shooter for negligence in the handling of a firearm. The shooter could receive immunity for shooting recklessly into a crowd, as long as he reasonably believed he was in serious danger.

Selected Press Clips

Shooting to Kill

September 12, 2005
Detroit Free Press

Bills in the Michigan Legislature that would sanction fatal shootings of intruders into homes or occupied vehicles are unnecessary, imprudent and dangerous.

Republican Reps. Tom Casperson of Escanaba and Rick Jones of Grand Ledge, who introduced the bills, said the legislation would prevent residents from having to worry about whether they are justified in using force to defend their families and property.

That's nonsense. Shooting or killing someone should concern any reasonable person. A home or vehicle break-in does not necessarily endanger the life of the occupant. Nor does it absolve the owner, legally or morally, from making any decision other than shooting to kill.

The courts already, for good reason, have given broad latitude to people defending themselves in their homes or vehicles. Even so, a blanket license to kill, exempting all such cases from even civil action, sends the wrong message to a society already plagued by gun violence. In fact, the bills go even further, granting extra legal protection to shooters who reasonably believe they are acting in self-defense, without requiring them to retreat.

Legislators should not encourage shooting people, even those who invade a home or car. And the law certainly should not prohibit lawsuits in these cases, the merits of which should be decided in court.

The bills are similar to a law signed earlier this year in Florida, which gives residents the right to defend themselves by shooting in public places, including the street or a business.

Like the Florida law, the Michigan bills are poor public policy, and the Legislature ought to reject them. Michigan isn't Dodge City. It doesn't need laws giving people an absolute right to shoot first and answer no questions later.

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An ounce of prevention

September 12, 2005

BY BRIAN DICKERSON
FREE PRESS COLUMNIST

Michigan lawmakers face many problems -- spiraling gas prices, cheap labor abroad, the Notre Dame defense - - for which there are no readily apparent legislative solutions.

From time to time, in an effort to relieve their frustration, they busy themselves fashioning legislative solutions for which there is no readily apparent problem.

A case in point is a pair of bills introduced last week by Rep. Tom Casperson, R-Escanaba, and Rep. Rick Jones, R-Grand Rapids. The bills would immunize law-abiding citizens who use deadly force in self-defense from prosecution or civil liability arising from, say, the death of an innocent bystander. The bills would also make it clear that no one accosted in his own home, yard or car has a duty to retreat, even if an escape route is readily available.

An invisible epidemic

The first thing that occurred to me when I heard about the Casperson-Jones package was that I'd somehow missed a slew of cases in which otherwise law-abiding citizens had found themselves facing criminal charges after fending off home intruders or would-be carjackers.

But it turns out I hadn't.

Late last week, in separate phone conversations, I asked Casperson and Jones if either could identify a single instance in which a Michigan resident had been prosecuted or sued for using deadly force to repel an attacker or home intruder.

"I don't know of one in Michigan," Casperson conceded. "I think there may have been some instances in Florida."

"I can't think of one," Jones echoed. "But an ounce of prevention is worth a pound of cure."

Saturday morning, Jones called me back to say he'd remembered an Eaton County case in which a burglar who attacked a Dimondale couple inside their home sued for damages he sustained when the lady of the house hit him over the head with a jar of pennies.

When was that? I asked.

"Sometime in the last decade or so," Jones said.

Did the plaintiff get anywhere?

"It's my understanding the couple won," he said.

Flexing their muscles

Jones and Casperson say their bill isn't about guns. But it's the National Rifle Association, not the American Federation of Coin Collectors, which has promised to make life miserable for legislators who oppose their solution to this urgent nonproblem.

NRA executive vice president Wayne LaPierre says his group is championing similar stand-your-ground legislation in at least 29 states.

It's an issue with a big tailwind, LaPierre said earlier this year, Newsday reported. "Politicians are putting their career in jeopardy if they oppose this type of bill."

Of course, prosecutors who put law-abiding homeowners on trial for protecting their property are putting their careers in jeopardy, too. Perhaps that's why such prosecutions are so rare.

Still, I'm betting Michigan lawmakers will address the issue lickety-split. It may not be an emergency, but it sure beats explaining supply and demand to another constituent riled up about gas prices.

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Washington Post
Tuesday, April 26, 2005, Page One

Fla. Gun Law to Expand Leeway for Self-Defense
NRA to Promote Idea in Other States

By Manuel Roig-Franzia
Washington Post Staff Writer

MIAMI -- It is either a Wild West revival, a return to the days of "shoot first and ask questions later," or a triumph for the "Castle Doctrine" -- the notion that enemies invade personal space at their peril.

Such dueling rhetoric marked the debate over a measure that Florida Gov. Jeb Bush (R) could sign as early as Tuesday. The legislation passed so emphatically that National Rifle Association backers plan to take it to statehouses across the nation, including Virginia's, over the next year. The law will let Floridians "meet force with force," erasing the "duty to retreat" when they fear for their lives outside of their homes, in their cars or businesses, or on the street.

NRA Executive Vice President Wayne LaPierre said in an interview that the Florida measure is the "first step of a multi-state strategy" that he hopes can capitalize on a political climate dominated by conservative opponents of gun control at the state and national levels.

"There's a big tailwind we have, moving from state legislature to state legislature," LaPierre said. "The South, the Midwest, everything they call 'flyover land' -- if John Kerry held a shotgun in that state, we can pass this law in that state."

The Florida measure says any person "has the right to stand his or her ground and meet force with force, including deadly force if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm."

Florida law already lets residents defend themselves against attackers if they can prove they could not have escaped. The new law would allow them to use deadly force even if they could have fled and says that prosecutors must automatically presume that would-be victims feared for their lives if attacked.

The overwhelming vote margins and bipartisan support for the Florida gun bill -- it passed unanimously in the state Senate and was approved 94 to 20 in the state House, with nearly a dozen Democratic co-sponsors -- have alarmed some national gun-control advocates, who say a measure that made headlines in Florida slipped beneath their radar.

"I am in absolute shock," Sarah Brady, chair of the Brady Center to Prevent Gun Violence, said in an interview. "If I had known about it, I would have been down there."

The lessons of history do not bode well for gun-control groups and their leaders, such as Brady, who became a crusader after President Ronald Reagan and her husband, then-White House press secretary James S. Brady, were seriously wounded in a 1981 assassination attempt.

Florida has a track record as a gun-law trendsetter. In the mid-1980s, the NRA chose Florida to launch a push for "conceal carry" or "right-to-carry" laws, which allow states to issue permits for residents to carry firearms. Democrat Bob Graham, who was then governor, vetoed the measure, but it was resurrected after he left office and was signed in 1987 by Gov. Bob Martinez, a Republican.

At the time, fewer than a dozen states had right-to-carry laws. Now there are 38.

LaPierre thinks the new Florida measure -- nicknamed the "Castle Doctrine" by its conceiver, Florida lobbyist Marion P. Hammer, a former NRA president -- can create the same momentum.

Critics argue that the measure is so broad it will encourage fights between neighbors, parents at soccer games or drinking buddies to escalate into gunfights.

"It's almost like a duel clause," said state Rep. Dan Gelber, a Miami Beach Democrat and former federal prosecutor whose wife is a state prosecutor. "People ought to have to walk away if they can."

Gelber believes that Florida's major prosecutor groups, populated by state attorneys who must run for reelection, stayed out of the fight and many lawmakers supported the bill because they fear the NRA.

Law enforcement did not try to block the measure, siding with the NRA rather than opposing the group, as many sheriffs and police officials had done during the debate two decades earlier over right-to-carry.

Florida Attorney General Charlie Crist, a leading candidate for the Republican governor's nomination in 2006, was among those who wrote letters of support. With that kind of high-level backing, Rep. Dennis Baxley, a Republican from Ocala who sponsored the House measure, could ridicule critics as "hysterical."

"Disorder and chaos are always held in check by the law-abiding citizen," Baxley said.

As in the mid-1980s fights over the right-to-carry law, the state's big newspapers have almost unanimously lined up against Baxley's measure, although their outrage did little to stop its easy glide. South Florida Sun-Sentinel columnist Howard Goodman said the state was "getting in touch with its inner Dirty Harry." Martin Dyckman of the St. Petersburg Times told tourists, indisputably a bedrock of the state's economy, to stay away: "Lebanon might be safer."

Hammer, a 4-foot-11 dynamo with a national reputation for her persuasive powers, dismissed the papers as "liberal, anti-gunners" and "Chicken Littles." The current law unfairly forces Floridians to make split-second decisions about a criminal's intent, she said, and NRA lobbyists like to note that was deemed impossible generations ago by legendary Supreme Court Justice Oliver Wendell Holmes. "Detached reflection," Holmes said in one of his most oft-quoted pronouncements, "cannot be demanded in the presence of an uplifted knife."

Hammer stresses that violent-crime rates in Florida have dropped since the right-to-carry law was signed. The Florida Department of Law Enforcement reports that violent crimes dropped from 1,136 per 100,00 residents in 1989 -- two years after the law went into effect -- to 727.7 per 100,000 in 2003.

Her opponents counter that Florida's drop is not tied to the gun law and note that national violent-crime rates have been trending down. More important, Gelber and others say, is that Florida still ranked second in the nation, behind only South Carolina, in violent crime in 2003, according to U.S. Census Bureau statistics.

Brady's best hope, as a national fight appears inevitable, is that there will be a backlash -- much like the bounce that gun control got in Florida in the 1980s when the loss on the right-to-carry law was followed by victories on waiting periods and background checks.

"This," Brady says of the new Florida measure, "will be the thing that will awaken the sleeping great number of Middle Americans who will think this is so absurd."

But, for now, it is the thoughts of another group that really matter, the ones with guns. In this state of 17 million people, permits to carry guns have been issued more than 1 million times in the past 18 years.

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April 28, 2005

NRA axiom now Fla. law

BY ANDREW METZ
STAFF WRITER

Self-defense law is built on the bedrock assumption that people ought to try to escape an assailant before resorting to deadly force - unless the confrontation occurs at home, where it's presumed retreat is no longer an option.

The National Rifle Association has a new version, and it can be summed up as Stand and Deliver.

An NRA-crafted bill eliminating the need to retreat from a threat in public places and more freely allowing residents to "meet force with force" was signed into law Tuesday by Florida Gov. Jeb Bush. The gun rights group is now promising similar stand-your-ground measures around the country, even in traditionally liberal states like New York.

"We will go everywhere, red states and blue states, including New York," Wayne LaPierre, the NRA's executive vice president said yesterday. "It is both a liberty and a crime issue with a big political tailwind. Politicians are putting their career in jeopardy if they oppose this type of bill."

LaPierre said he plans to immediately begin "dropping bills" in capitals, targeting at least 29 states, including New York, that have laws with specific retreat requirements. He said the issue will be "a great one to put politicians' feet to the fire" during elections.

The law sailed through the Florida Legislature. Gun control advocates, criminal justice experts and many other police and prosecutors, however, disapproved. Miami Police Chief John Timoney said it encourages violence and he fears people will believe they have "total immunity from prosecution."

Rep. Dan Gelber, a Miami Democrat who was one of 20 lawmakers to oppose the bill, said "it doesn't quite legalize duels, but it comes very close."

Common law and many state codes expect retreat from danger outside the home if it can be done safely. The NRA measure is the most explicit removal of this obligation, say gun control experts, who view it as part of a broader campaign to relax firearm rules.

"The NRA is really pushing for citizens to take the law into their own hands," said Brian Siebel, the senior attorney at the Brady Center to Prevent Gun Violence.

Eugene O'Donnell, professor of law and police studies at John Jay College, said the bill plays on a simplistic stereotype of "Polly Purebred walking down the street gets assaulted by a snaggle-tooth mugger."

Richard Aborn, president of New Yorkers Against Gun Violence, accused the NRA of ignoring the "right to self-defense enshrined in every penal law" and engaging in "a perverse exploitation of a politician's fear of appearing soft on crime."

But Jay Romine, president of the Florida Police Chiefs Association, insisted the measure simply gives "some rights back to the good guys." And LaPierre said it should "make criminals pause before they commit their next rape, robbery or murder."

New York Conservative Party leader Michael Long said yesterday that he was considering the issue for his platform. He said "it could happen here if one articulates the issue in the proper way."

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Sarasota Herald-Tribune
Sunday, July 10, 2005

New law can't guarantee that calling a shooting self-defense makes it so
Tom Lyons

After his adult son shot a man in the leg Wednesday and sheriff's investigators took his son to jail, James Loudon had many questions.

Some were about the details of the shooting, which he and his construction worker son say was self-defense. Loudon, a retiree from Chicago, didn't see the shooting but he thinks he knows most of those details now.

His remaining questions are mostly about a new Florida law. It was advertised as expanding the right to use firearms and deadly force when people think they are threatened with illegal violence.

Loudon hopes that law, lauded by the governor and backed by the National Rifle Association, will protect his son. He hopes the law, combined with witness accounts, will lead prosecutors to drop the aggravated battery charge listed in the Sarasota County Sheriff's Office arrest report.

But at the same time, he told me he also fears that the law might have encouraged his son to shoot when maybe he didn't really have to.

"I don't think he would have been quite as anxious to pull the gun" were it not for that law, Loudon told me.

His son -- James Victor Loudon, 36 -- has a concealed firearm permit. The father says his son was also well aware of the new law, which allows potential victims of violence to use deadly force if in fear in situations where state law previously required an attempt to retreat if possible.

That evening, the younger Loudon had gone to help his teenage stepdaughter change a tire. The man he shot was the same man his stepdaughter believed had slashed the tire.

Witnesses confirmed that the man, 19-year-old Andrew James Vavrik, was driving by and yelling obscenities while the tire change was going on. When Vavrik passed by again and then stopped nearby, the younger Loudon approached his car. According to Loudon's lawyer, he never got closer than 10 or 15 feet away, and intended only to urge Vavrik to stay around to talk to law officers who had already been called.

Vavrik later told investigators that Loudon first threatened to kill him and then, without provocation, shot through Vavrik's car door, hitting him in the leg. But Loudon's lawyer, Fred Mercurio, says Loudon made no threat and never showed his concealed handgun until Vavrik intentionally drove his car at him. Loudon got out of the way, drew his gun and fired, Mercurio says.

So Mercurio has hopes that charges will be dropped and that Vavrik could soon be the one charged.

The details clearly matter. I don't know which account is closer to the truth.

But even if Vavrik was being a total jerk, and even if Loudon approached without violent intent and Vavrik almost ran him over, the law may not make this any easier to sort out. For one thing, if Vavrik felt threatened by the approaching Loudon, maybe he was entitled to use his car as a self-defense weapon.

The elder Loudon can't help but wish his son had simply gotten out of the way and left it at that. But who knows what would have happened next?

"He thought he was in the right" to use the gun, the father told me. "By passing this law, the politicians have created a very confusing situation."

Maybe so. But these situations have always been confusing, and always will be. There is often no easy way to know who was more at fault.

Sometimes it is the one who started it. Sometimes it is the one who escalated it. Sometimes it is the one who escalated it all the more.

And almost always, everyone involved feels justified no matter what any law says.

Miami Herald

Monday, July 11, 2005

By Martin E. Segal

ASK DOCTOR LAW

Understanding the 'Stand Your Ground' law

Q: Our company transports currency, securities and other valuables for private financial institutions. Due to the possibility of attempted robbery, our delivery personnel are licensed to carry weapons on their persons. Now our office staff members claim they are allowed to use deadly force to prevent crime at the workplace under a new Florida law, and they want to get concealed weapons permits. It sounds like they're talking about acting like police rather than just defending themselves. Is there such a law and, if so, how does it work?

-- "Cautious Bosses," in Bal Harbour

A: Florida passed the controversial "Stand Your Ground" law in April, as new statute 776.013, effective Oct. 1, 2005. It expands the pre-existing law of the "castle doctrine" followed in most states that authorizes homeowners and residents to shoot intruders or otherwise use deadly force when they reasonably believe their safety is in jeopardy, without first having to reasonably try to flee or otherwise avoid the confrontation.

The law also expands the doctrine to public places, such as shopping malls, parking lots, bars and restaurants. Rather than requiring an actual public attack before a deadly response, the victim's "perceived attack threat" is the guideline.

The new law allows private citizens to use deadly defensive force anywhere outside their "home castle" without fear of criminal or civil liability if they "hold a reasonable fear of imminent peril of death or great bodily harm." Instead of requiring an actual attack, the citizen-victim's perceived threat is the guideline, and it grants them a legal presumption that they in fact acted due to being in "reasonable fear." The act also allows recovery of reasonable legal fees, court costs and business losses due to having to defend civil lawsuits filed by intruders or other assailants.

Involved parties have "no duty to retreat and [have] the right to stand [their] ground and meet force with force [including deadly force] if the person is in a place where he or she has a right to be." This broadly includes one's car, workplace and public places like shopping malls, parking lots, bars and restaurants. Formerly, the law would not allow use of lethal force outside the home until victims had first attempted to escape under the "retreat doctrine."

The law was backed by the National Rifle Association as an appropriate anti-crime measure and passed both houses of the Florida legislature by wide margins, 39-0 in the Senate and 94-20 in the House. Its final version was softened a bit by eliminating an earlier provision that would have subjected police and prosecutors to potential civil actions for wrongful prosecution, and one that would have allowed a private citizen to shoot in defense of a neighbor's "home castle."

Proponents suggest the legal system was eroding the rights of private citizens to defend themselves, and the old duty to retreat or escape put potential victims at greater risk. "The tougher new law will help deter criminal activity by allowing threatened parties to meet force with force," they say.

Critics warn that the new law will trigger an escalation of gun crimes and turn the state into a modern-day version of Wild West vigilantism. They say it gives gun owners the license to kill and that deadly escalations of arguments may be orchestrated to justify use of lethal force. Some also suggest there will be an increase in negligent discharge of weapons, calling the act the "shoot your Avon lady law."

So to partially answer your question, your employees have the right of "reasonable" defense inside the office if you as their employer permit legally concealed weapons in the workplace. Notice, however, we aren't suggesting that it's a wise thing to do nor an office policy your company should implement. Most employers we've talked to prohibit employees from having weapons in their desks or lockers or any other workplace area, even if they have a concealed weapons permit, for fear of the obvious legal and practical problems that could result.

The legal question that is usually asked when a private citizen uses deadly force is whether or not he or she acted "reasonably" in light of the actual or perceived threat. That issue will remain at the forefront of the new law, and only time will tell as to how it impacts Florida's citizens. Between now and the Oct. 1 effective date, the Florida Supreme Court also will have to redraw standard jury instruction that now emphasize one's duty to retreat from confrontations outside the home.

Christian Science Monitor
May 10, 2005

Florida boosts gun rights, igniting a debate

A new law allows residents to employ 'deadly force' in public places - part of a new nationwide drive by gun lobby.

By Jacqui Goddard | Correspondent of The Christian Science Monitor

MIAMI – When 16-year-old Mark Drewes knocked on a neighbor's door in Boca Raton, Fla., and then ran away as a prank, he was shot dead by homeowner Jay Levin. Mr. Levin, who said afterward that he mistook the boy for a robber out to attack him, was sentenced to 52 weekends in jail for manslaughter.

Now, 18 months later, the state has enacted a law that opponents fear will only encourage more gun owners like Levin to adopt a "shoot first, think later" approach - and this time get away without punishment. But others see the new measure, which allows people to meet "force with force" in public places without fear of punishment, as a vital way for people to protect their homes and families.

The law is kicking off a fierce new debate over the availability of guns in society - one that extends way beyond Florida.

Eighteen years ago, the state adopted legislation allowing citizens to carry concealed weapons in public places. It became the impetus for dozens of other states to pass similar laws.

Now the powerful National Rifle Association (NRA) has chosen Florida to launch this latest gun initiative, in hopes of once again taking its campaign nationwide. Consequently, lobbyists on both sides are gearing up for a national fight.

This law "worries me terribly," says Sarah Brady, chair of the Brady Campaign to Prevent Gun Violence. "This is just a license to kill."

Building on a preexisting statute known as the "castle doctrine," the new law seals the right of residents to employ "deadly force" to protect their homes and vehicles.

Most significantly, it now extends that right to public places, too, meaning that a person no longer has a duty to retreat from what they perceive to be a threatening situation before they are entitled to pull the trigger. Members of the public may now stand their ground and "meet force with force," it states, without fear of criminal prosecution or civil litigation. "It's common sense to allow people to defend themselves," said Gov. Jeb Bush (R) as he signed the new law.

OK Corral or safety measure?

Ms. Brady believes that far from making sense, the new law provides gun owners a legal screen behind which to hide during confrontations and "threatens to enable every rogue with an itchy trigger finger." "It's a terrible precedent," she says. "I am sorry that Florida had to be a test-ground, but I think what has gone on there should be a wakeup call for the rest of the country to stand up and fight this."

Gun advocates reject the notion that the new law leaves too great a margin of error, however. They also dismiss critics' talk of a Wild West revival and the assertion by Democratic Rep. Irv Slosberg, one of only 20 state lawmakers who opposed the bill, that it will promote vigilantism, "sell more guns, and possibly turn Florida into the OK Corral."

The law empowers the public, they argue, and should be used to send a powerful message to would-be criminals across the country. "You can't expect a victim to wait before taking action to protect himself and his family and say, 'Excuse me, Mr. Criminal, are here you breaking into my home to rape and kill me or are you just here to beat me up and steal my TV set? And by the way what kind of weapon do you have?'" Marion Hammer, an NRA lobbyist who was a driving force behind the bill, told the legislature during debate.

Ms. Hammer, a former president of the NRA, adds: "This puts the law on the side of the victim. For too long, the law has been protecting criminals. Law-abiding people only want to be able to protect themselves, and they are sick and tired of our court system saying they can't."

Why Florida is the launchpad

Florida seemed an obvious target for the NRA as a launchpad for such legislation. It has long been a supporter of more rights for gun owners. Not only was it an early adherent of allowing concealed weapons, but the castle-doctrine legislation moved through the state legislature with alacrity. The measure was unopposed in the GOP-

dominated Senate and passed the House of Representatives by a vote of 94 to 20. Many Democrats admitted that they did not want to appear soft on crime by voting against it.

State Attorney General Charlie Crist (R), due to announce his candidacy for the 2006 gubernatorial race this week, was among law-enforcement figures who backed the bill, though others such as Miami police chief John Timoney and Broward County Sheriff Ken Jenne spoke against it, warning that it is ripe for misuse.

Higher firearm deaths

Florida suffers 11.3 deaths by firearms per 100,000 people. The national average is 10.5. The NRA says there is no evidence that relaxed gun controls are to blame for Florida's higher-than-average toll. The lobbying group points out that since Florida enacted its "concealed carry" legislation 18 years ago, violent crime has been almost halved in the state. Of the more than 1 million Floridians who have been issued with gun permits, it adds, less than 1 percent have had them revoked for misuse.

"In 1987, the gun-haters said all the same things as they are saying now - that there would be blood in the streets, that Florida would become the Wild West. None of that happened then and it isn't going to happen now," says Hammer.

Brady - whose husband, former White House press secretary Jim Brady, was left disabled after being shot in the head during the 1981 assassination attempt on President Reagan - speaks as a victim as well as a campaigner. "This law isn't a deterrent, it sets a terrible precedent. At ballgames, in bars, on the streets, this is going to endanger the lives of innocent folks and put them in the line of fire, just like my husband was," she says.

Atlanta Journal-Constitution May 2, 2005

Editorial Wild West relocates to Florida

Florida has ignored common sense and public safety by adopting a law that encourages violent confrontations between its residents. Worse still, the National Rifle Association is gleefully planning to lobby for similar changes in other states.

Florida's Legislature easily passed — and Gov. Jeb Bush signed — a bill that declares that people out in public are no longer obligated to retreat from danger before resorting to deadly violence in self-defense. Until now, in that situation, discretion as the better part of valor had been common law in the state.

Critics worry the law will serve to escalate ordinary disagreements into shootouts. Florida's mistake, signed into law by Bush last Tuesday and effective Oct. 1, should not be duplicated elsewhere.

Some states, including Georgia, have established legal justification for the use of deadly force by ordinary residents in their homes as well as in public. Several states have added the explicit right to stand and fight rather to run.

But the Florida law introduces some new potential hazards to the gunslinger environment. The legislation presumes the presence of fear on the part of whoever uses deadly force in self-defense in their home. The presumption in turn provides justification for a violent response, according to the Brady Campaign to Prevent Gun Violence. Whoever uses justifiable force per the law is also immune from both criminal prosecution and civil litigation. The law does not constrain the investigation of such cases, but limits the ability of police to arrest whoever claims self-defense.

The NRA has not identified the next states for its assault. But it has a presence in Georgia. It is campaigning against a Roswell ordinance that sensibly restricts the discharge of weapons within the city.

It also lobbied this year — unsuccessfully — for a change in state law to permit patrons of bars and some restaurants to carry concealed weapons. Let's hope the NRA shoots another blank if it tries to introduce Florida's recipe for mayhem to Georgia.

Time Magazine

Shoot First, Regret Legislation Later Why Florida's "stand your ground" law is a bad idea-and one that could spread

By Michelle Cottle

Despite my liberal credentials as a volvo-driving, pro-choice, gay-marriage-supporting urban dweller, I admit to an inner conflict when it comes to guns. I grew up surrounded by firearms and the boys who loved them. My father is an avid hunter who threatened to buy my son a lifetime membership in the National Rifle Association in the U.S. for his first birthday. I myself have mowed down a variety of defenseless woodland creatures. I used to be a decent shot with a pistol, and once during the Clinton presidency years, I spearheaded an outing of lefty political scribes for a round of skeet shooting.

But while I appreciate guns, I also appreciate the need for gun laws. Without them, Dad's quip—"A well-armed society is a polite society"—holds true only if your idea of "polite" is something akin to hbo's Deadwood on television or the Sunni triangle. Which is why I'm perturbed by the Florida legislature's decision to pass a bill, signed into law by Governor Jeb Bush last week, allowing virtually anyone who feels threatened at any time and in any place to whip out a gun and open fire. The law decrees that a person under attack "has no duty to retreat and has the right to stand his or her ground and meet force with force, including deadly force if he or she reasonably believes it is necessary to do so to prevent death or great bodily harm to himself or herself or another or to prevent the commission of a forcible felony."

"Stand his or her ground"? "Meet force with force"? Wow. It's as if the text of a real bill somehow got transposed with dialogue from a 1970s Dirty Harry paean to vigilantism. I can picture a stressed-out Tampa soccer mom drawing a bead on an approaching panhandler and shrieking, "Go ahead, make my day!"

Gun-control advocates are distraught over this development, predicting a rise in everything from road-rage episodes to gang violence. Gun toters may wrongly assume they have "total immunity from prosecution," said Miami police chief John Timoney. The law's supporters dismiss such concerns as liberal hysteria and extol the bill's passage as a victory for law-abiding citizens. Wayne LaPierre, the n.r.a.'s excruciatingly macho executive vice president, crowed, "[This will] make criminals pause before they commit their next rape, robbery or murder."

I don't agree, Wayne. The Florida courts, like those elsewhere, have long acknowledged that shooting someone in self-defense is, on occasion, a tragic necessity. It's just that, until now, most states in the U.S. have held to the notion that lethal force should be avoided whenever a reasonable alternative, like running away, is safely possible. The recognized exception is when a person's home has been invaded, at which point the homeowner may shoot first and ask questions later—a provision commonly referred to as the "Castle Doctrine." But the n.r.a. and Florida lawmakers apparently felt the definition of one's "castle" needed broadening to include pretty much anywhere a person might happen to wander. Some drunk spoiling for a fight at your favorite bar? Don't "retreat" to another barstool. Flash the .44 Magnum in your shoulder holster and ask the punk if he feels lucky.

Unfortunately, this legislative absurdity is a problem for more than just Florida. A triumphant n.r.a. has vowed to get "stand your ground" laws passed in every state. "We will start with red and move to blue," LaPierre has declared, adding ominously, "Politicians are putting their career in jeopardy if they oppose this type of bill."

Though irritating, LaPierre's cockiness is perhaps justified. The Bush presidency years have been good to the n.r.a. With Republicans running Washington, cowed Democrats are afraid to utter the words gun control even in the privacy of their homes. As a result, despite polls showing that most Americans support sensible gun laws, the n.r.a. has opposed even popular measures like renewing the 1994 ban on assault weapons (which the U.S. Congress let lapse last year). At this point, the n.r.a. won't even support banning the sale of guns to terrorist suspects on the no-fly list. If pressed, LaPierre has piously asserted, "This is a list that somebody has just put a name on. These people haven't been indicted for anything. They haven't been convicted of anything."

Alas, despite its oft professed commitment to keeping weapons away from the bad guys, the n.r.a. clearly has no use for gun laws—other than some Wild West, kill-or-be-killed law of the streets. But, hey, if that's the way the gun lobby thinks we should start handling disputes in this country, maybe it's time the Democrats stopped agonizing about gun control and started brushing up on its aim—if only for purposes of self-defense. I'd be happy to organize a trip to the skeet range anytime, guys. My Volvo seats five.