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## SHOOT FIRST...THEN RELOAD!

*State “castle laws” greatly expand the meaning of self-defense*

By Julius (Jay) Wachtel. “Bad people are going to get away with murder.” That’s what a Missouri prosecutor said after changes in State law reluctantly led him to accept a plea for involuntary manslaughter from a defendant he was certain was guilty of murder. Under pressure from the NRA and a newly energized, gun-toting public more than a dozen States have enacted “stand your ground” laws in the last two years. Also called “Castle” laws, the statutes typically declare that anyone who unlawfully enters a home or vehicle is presumably a threat to its legitimate occupants, and authorizes those lawfully present to use deadly force to repel the invader, with no duty to back down, and with full immunity from lawsuits and prosecution.

Now many States, including [Missouri](#), [Florida](#) and [Texas](#) have extended the doctrine from homes and vehicles to wherever someone happens to legally be, in effect giving private individuals the same authority to use deadly force as a peace officer. Opposing the legislation, Texas prosecutors unsuccessfully [argued](#) that it could make it difficult to prosecute gangsters and trigger-happy persons who kill maliciously or needlessly. Their predictions seem to have come true. Eight months later a cranky old Texas man toting a shotgun ignored a 911 dispatcher’s pleas and [fired on two burglars](#) leaving his neighbor’s house, killing both (they turned out to be unarmed). Naturally, the shooter, whom his attorney says is deeply remorseful, now claims that he felt threatened. And since one of the burglars was struck full-on in the chest, who’s to say otherwise? The case presently sits in the DA’s office, which will decide whether to present it to a grand jury.

Similar dilemmas are playing out elsewhere. [In a single week in late 2007](#) residents of Jackson, the Mississippi state capital, shot two suspected burglars dead and wounded a third. Each episode was found to be in compliance with Mississippi’s self-defense laws, which were revised in 2006 to provide that anyone who unlawfully enters a home, vehicle or place of business presumably intends to harm its occupants and can be repelled with deadly force (Mississippi code, 97-3-15). Interestingly, one of the shooters, a convicted felon, faces Federal prosecution after ATF agents who learned of the incident searched his home, finding a gun and drugs.

Are these new laws a good thing? Many think not. Upset that [Kentucky’s Castle law](#) forced a plea bargain in what seemed a legitimate murder case, a [State judge](#) complained that the legislation was enacted “without a single attorney looking at it.” Her opinion -- that the legislation was superfluous, as the legitimate use of self-

defense is already permitted by law -- has been echoed by law enforcement, prosecutors and gun control advocates, who worry that liberalizing self-defense laws will promote violence.

On the other hand, the line between necessary and excessive force can be blurry. According to the [NRA](#), a main purpose of Castle laws is to keep citizens from being needlessly sued and prosecuted. There's no question that some otherwise law-abiding citizens have gone to prison despite offering plausible claims of self-defense. In 2006 an Arizona jury convicted [Harold Fish](#) of second-degree murder for shooting and killing a hiker whom Fish claims attacked him after he fired a shot to warn off one of the man's dogs. In sentencing Fish to the minimum possible term -- ten years without parole -- the judge said "this case does give new meaning to the word tragedy. I do believe [the defendant] reacted out of fear and instinct when he shot and killed Grant Kuenzli. He made a split second decision with tragic consequences."

In an increasing number of States "stand your ground" laws and liberal CCW rules give virtually every citizen without a felony conviction the tools and authority to use deadly force whenever and wherever they choose. Considering the the pitifully minimal screening that concealed-carry laws require, and the kinds of characters who would sling arms while going to the drugstore and the movies, one has to be concerned with the consequences of encouraging these would-be Rambos to play cop.

Oh, yes. In the interests of full disclosure, this writer never "packed" when off-duty and happily gave up his toys when he retired.