



# ARIZONA HOUSE OF REPRESENTATIVES

Fifty-sixth Legislature  
Second Regular Session

House: JUD DP 5-3-0-1

## **HB 2843: defense of premises; definition**

**Sponsor: Representative Heap, LD 10**

**Caucus & COW**

### **Overview**

Amends the definition of *premises* for purposes of an existing justification defense in the criminal code.

### **History**

[A.R.S. title 13](#), chapter 4 contains multiple sections of statute relating to justification defenses in criminal prosecutions. These defenses describe conduct that, if not justified, would constitute an offense but, if justified, does not constitute criminal or wrongful conduct. Justification defenses under chapter 4 are not affirmative defenses; therefore, if the defendant in a criminal prosecution presents evidence of justification under chapter 4, the state must prove beyond a reasonable doubt that the defendant did not act with justification ([A.R.S. § 13-205](#)). Justification is available as a defense in a prosecution for any offense in the criminal code, except that the defense is unavailable if a person recklessly injures or kills an innocent third person regardless of whether the person was justified in threatening or using physical force or deadly physical force against another ([A.R.S. § 13-401](#)).

One form of justification involves actions taken by a person to stop or prevent a criminal trespass on certain premises. Specifically, a person or the person's agent who is in lawful possession or control of a premises is justified in threatening to use deadly physical force or in threatening or using physical force against another if a reasonable person would believe it immediately necessary to prevent or terminate the commission or attempted commission of a criminal trespass by the other person in or upon the premises. However, such a person may only use deadly physical force in these circumstances in defense of himself or third persons as described in A.R.S. §§ [13-405](#) and [13-406](#).

For purposes of this form of justification, *premises* is defined as any real property and any structure, movable or immovable, permanent or temporary, adopted for both human residence and lodging whether occupied or not ([A.R.S. § 13-407](#)). Other applicable terms, such as *physical force*, *deadly physical force*, *possess* and *possession* are defined in [A.R.S. § 13-105](#). Additionally, the different forms of criminal trespass are prescribed in [A.R.S. title 13](#), chapter 15.

### **Provisions**

1. Changes the definition of *premises* for purposes of the justification defense in [A.R.S. § 13-407](#) to mean any real property *or* (rather than *and*) any structure, moveable or immovable, permanent or temporary, adopted for *either* (rather than *both*) human residence *or* (rather than *and*) lodging whether occupied or not. (Sec. 1)

<input type="checkbox"/> Prop 105 (45 votes)	<input type="checkbox"/> Prop 108 (40 votes)	<input type="checkbox"/> Emergency (40 votes)	<input type="checkbox"/> Fiscal Note
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