



C.L. "BUTCH" OTTER
GOVERNOR

March 21, 2018

The Honorable Brad Little
President of the Senate
State Capitol
Boise, ID 83702

Dear Mr. President,

I hereby advise you that I have transmitted to you today the following Senate Bill, which was allowed to become law without my signature:

S 1313

as prescribed by the Constitution.

I believe people have the right to protect themselves and their loved ones. I firmly believe in the right to defend my home, my business and my car if I reasonably believe they are threatened with serious harm. I commend those portions of Senate Bill 1313 that codify existing case law and recognize the sanctity of private property. However, a thorough review of this bill reveals some concerns that warrant further review during the next legislative session.

Among my biggest concerns are the potential unintended consequences on our children. For instance, the following hypothetical acts likely would be criminal under current law but would be considered justifiable homicide under S1313:

- A juvenile enters a locked recreational vehicle through an open window in the neighbor's driveway to steal a soda. The owner comes out of his house to investigate and shoots the child in the RV. The owner is justified because the child unlawfully entered the RV. By sneaking in through the window the child is presumed to be committing a felony under S1313, and the owner's fear and action is deemed reasonable regardless of the child's age.
- Teenagers in rural Idaho sneak onto a 300-acre cornfield in the middle of the night. The cornfield is considered a commercial property. If the farmer shoots and kills one of the teenagers, he is presumed to have acted reasonably under S1313 simply because the teenagers used stealth to sneak onto the property and are unlawfully trespassing.

In short, if someone enters unlawfully and by force or stealth they are presumed to be committing a felony and the shooter is deemed reasonable in their actions. The statutory establishment of "reasonableness" by virtue of unlawful entry by force or stealth will exonerating killings that otherwise would be considered unreasonable.

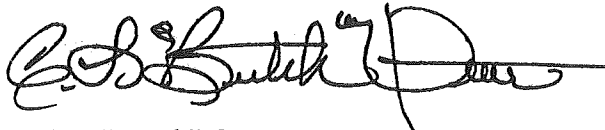
The Honorable Brad Little
March 21, 2018
Page 2

Furthermore, the language of S1313 allows its provisions to be invoked in places of employment, which is defined as commercial enterprises that are owned by a person as all or part of their livelihood. But does that mean a potato field has the same status as a home? Should a farmer be able to justifiably kill trespassers only because they sneak onto the farmer's property?

Instead of writing existing case law into Idaho Code, S1313 creates new presumptions that upend the longstanding "reasonable person" standard – a once bright line that is erased by this change.

The Legislature should continue to carefully examine this important issue of criminal law and track its use by Idaho courts to ensure that the outcomes reflect its intentions.

As Always – Idaho, "Esto Perpetua"

A handwritten signature in black ink, appearing to read "C.L. Butch Otter". The signature is stylized and includes a long horizontal flourish extending to the right.

C.L. "Butch" Otter
Governor of Idaho