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Sponsor Testimony on HB 381
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Mr. Chairman and members of the House Criminal Justice Committee - on behalf of gun owners across our state, thank you for bringing HB 381 forward to the committee for testimony today.

We introduced this bill for very simple reasons: 1) For the safety of Ohio citizens, 2) To provide protections for those who are lawfully exercising their Second Amendment rights while defending themselves or their families and 3), To reaffirm and further codify that our Second Amendment rights, the right to defend ourselves and our families from attackers is not only a God-given right, as declared by our Constitution, but a God-given responsibility. As representatives, we are here to protect the rights and responsibilities of our citizens, not to infringe them or, over time and political circumstance, garnish them away.

From the very outset of our country, self-defense and the ability to stand your ground was a key tenet in the minds of the Founders. John Locke, an influential 17th century political figure, was a major influence in many of our founding documents, including the reason why the majority of the States are stand your ground states versus following the duty to retreat as found in English Common Law.

The Stand Your Ground philosophy has held up time and time again, as our Founders knew that the duty to retreat created an even bigger danger to the lawful citizen. In 1895, in *United States v. Beard* the U.S. Supreme Court held: "If the accused did not provoke the assault, and had at the time reasonable grounds to believe, and in good faith believed, that the deceased intended to take his life, or do him great bodily harm, he was not obliged to retreat, nor to consider whether he could safely retreat, but was entitled to 'stand his ground', and meet any attack...with such force

as...were necessary to save his own life, or to protect him from great bodily harm.” In 1921, Justice Holmes, when writing for the Supreme Court in *Brown v. United States*, summed up the American attitude toward retreat when he said, “Detached reflection cannot be demanded in the presence of an uplifted knife.”

According to *The University of Memphis Law Review*, any legal justification for self-defense of any kind rests upon the premise that the defender has “no opportunity to resort to the law for his defense”. In addition, in 1965, the Appellate Division of the Supreme Court in the First Judicial Department in *Riss v. City of New York* held that absent their presence or some special undertaking, police do not have a duty to protect individuals threatened with harm. As held up in the court system, the police do not have a Constitutional duty to protect if not present at the scene. In these scenarios where police aren’t present, the Founders and the courts affirm its lawful citizen’s God-given right of self-preservation and self-defense. Think of that for a moment.

Also according to *The University of Memphis Law Review*, there are three components fundamentally necessary according to Constitutional law when using deadly force for self-defense, and you will find these components reaffirmed in HB 381. First, there has to be proportionality. A person must be confronted with deadly force before using deadly force. This should answer those who say that stand your ground laws create vigilante justice or out of control homicide as the law of all fifty states makes it clear that one cannot use deadly force against non-deadly force, a threat, or a verbal confrontation.

Secondly, the component of necessity is needed. The requirement of necessity includes confronting deadly force that is imminent or immediate, not a possibility in the future.

Third, self-defense claims must include reasonable belief. The defender must reasonably believe deadly force is necessary to prevent the use of deadly force on the defender. This is also another response to those who would critique such a law by saying that “reasonable belief is subjective, thus more homicides will occur.” However, under current law, the term “reasonable belief” is both a subjective and objective litmus test. It cannot only be reasonable to the one claiming self-defense, it will have to be proven reasonable to the court and jury as well.

You will find these components reaffirmed in HB 381.

To summarize HB 381, this bill:

1. Repeals the duty to retreat law in Ohio. By doing so, it allows an Ohioan the right to self-defense, wherever they are lawfully present.
2. Provides immunity from prosecution or civil action that may arise from a law-abiding citizen’s use or threatened use of deadly force.

3. Provides an enactment clause, establishing the right to a pre-trial immunity hearing - so that a law-abiding victim is not victimized twice through potentially lengthy court battles.
4. Expands the actions law-abiding citizens may exercise in a self-defense situation to include threatening the use of deadly force.

This bill would backstop Ohio's best citizens, the law-abiding gun owners when facing a potentially life-threatening situation. This bill is widely supported by the Second Amendment community across Ohio and we believe that such a law would make criminals afraid to commit violent crime again in this state.

Thank you for your time, and we would be happy to answer any questions that you may have.