

AMENDMENT TO RULES COMMITTEE PRINT 115-

70

OFFERED BY MR. GOHMERT OF TEXAS

At the end of subtitle D of title V, insert the following:

1 **SEC. 5___ . AFFIRMATIVE DEFENSE TO CRIMES OF VIO-**
2 **LENCE COMMITTED IN COMBAT THEATERS**
3 **OF OPERATIONS.**

4 (a) IN GENERAL.—At the end of subtitle X of chap-
5 ter 47 of title 10, United States Code, (the Uniform Code
6 of Military Justice), insert the following new section:

7 **“§ 935. Art. 135.; Affirmative defense to crimes of vio-**
8 **lence in combat theaters of operations**

9 “(a) IN GENERAL.—It is an affirmative defense in
10 a trial by court-martial of a crime of violence, including
11 murder, manslaughter, and assault, if at the time of the
12 commission of the acts constituting the offense, the ac-
13 cused was deployed to a combat theater of operations and
14 reasonably believed that such acts would protect the ac-
15 cused or a fellow member of the armed forces from subver-
16 sive enemy activity.

1 “(b) BURDEN OF PROOF.—The accused has the bur-
2 den of proving the defense of self-defense or defense of
3 a third party by a preponderance of the evidence.

4 “(c) INSTRUCTIONS.—Whenever the affirmative de-
5 fense referred to in subsection (a) is raised with respect
6 to an offense referred to under such subsection and is
7 properly at issue, the military judge, or the president of
8 a court-martial without a military judge, shall instruct the
9 members of the court as to the defense of self-defense or
10 defense of a third party.”.

11 (b) CLERICAL AMENDMENT.—The table of sections
12 at the beginning of such chapter is amended by inserting
13 after the item relating to section 935 (art. 135) the fol-
14 lowing new item:

“935. Art. 135. Affirmative defense to crimes of violence in combat theaters of
operations.”.

