

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND NINTH LEGISLATURE

Legislative Document

No. 136

H. P. 127

House of Representatives, January 23, 1979

Referred to the Committee on Judiciary. Sent up for concurrence and ordered printed.

EDWIN H. PERT, Clerk

Presented by Mr. Drinkwater of Belfast.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-NINE

**AN ACT Relating to the Use of Deadly Force and Nondeadly Disabling Chemicals
in Property Offenses.**

Be it enacted by the People of the State of Maine, as follows:

Sec. 1. 17-A, § 105, as amended by PL 1975, c. 740, § 27, is repealed and the following enacted in its place:

§ 105. Use of force in property offenses

1. A person is justified in using nondeadly force upon another when and to the extent that he reasonably believes it necessary to prevent what is or reasonably appears to be an unlawful taking of his property, or criminal mischief, or to retake his property immediately following its taking.

2. A person is justified in using deadly force under subsection 1:

A. Under such circumstances as are prescribed in sections 104, 107 and 108; or

B. In any other circumstances not prescribed in sections 104, 107 and 108, if he first demands the person against whom the deadly force is to be used to terminate the criminal act and the other person fails to comply with reasonable expediency with the demand, unless the person making the demand reasonably believes that it would be dangerous to himself or another to make the demand.

3. A person is justified in the use of nondeadly disabling chemicals upon another when and to the extent that he reasonably believes it necessary to prevent what is or reasonably appears to be an unlawful taking of his property, or criminal mischief, or to retake his property immediately following its taking.

Sec. 2. 17-A MRSA § 1002, sub-§ 3, as enacted by PL 1975, c. 499, § 1, is amended to read:

3. This section shall not apply to the use of ~~such~~ nondeadly disabling chemicals when said ~~that~~ use is for the purpose of self-defense or property protection in accordance with section 104 and 105.

STATEMENT OF FACT

This bill permits the use of deadly force to defend property in certain circumstances and permits the use of nondeadly disabling chemicals to defend property in certain circumstances.