

# MAINE STATE LEGISLATURE

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Dogs: Self Defense Killing

~~Don Alexander~~

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June 22, 1977

The Honorable Richard A. Spencer  
Legislative Post Office  
State House

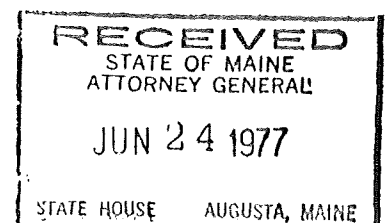
Dear Representative Spencer:

You recently raised the question of whether, under the common law, a person has a right to kill a dog in self-defense or in defense of another person. Given the rather broad scope of your inquiry, my response will necessarily be general in nature.

It may be concluded that the common law recognizes both self-defense and defense of another as justifiable reasons for killing or injuring a dog. This conclusion is supported by various legal treatises.

Under the common law . . . a person may justifiably injure or kill a dog in defense of himself or his family, or in defense of his property, whether the property is animate or inanimate; and it is immaterial that the slayer's premises are insecure against trespassing dogs. 3A C.J.S. Animals §290 (1973).

As a general rule, the killing of a trespassing animal is justified when reasonably necessary for the defense or preservation of persons or property, and this rule has been applied to various domestic animals, including dogs. The cases generally have held or recognized that the landowner has the right to use whatever force is necessary against a trespassing dog in defense of his family, his person,



The Honorable Richard Spencer

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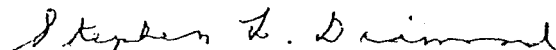
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or his property, even to the extent of killing the dog; and the right to kill or injure a licensed nontrespassing dog to defend another person from harm or attack by the animal has been recognized. 4 Am.Jur. Animals §136 (1962).

I do not mean to suggest that there are no limitations on the common law right to kill a dog in self-defense or in defense of another. Absent some unusual circumstance, however, the general rule that such a killing is justified would apply.

Please let me know if you need any additional information on this subject.

Very truly yours,



STEPHEN L. DIAMOND  
Assistant Attorney General

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