

MAINE STATE LEGISLATURE

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STATE OF MAINE
HOUSE OF REPRESENTATIVES (Filing No. H-145)
110TH LEGISLATURE
FIRST REGULAR SESSION

COMMITTEE AMENDMENT "A" to H. P. 143, L.D. 169, Bill, "AN ACT Concerning the Use of Force to Protect Property."

Amend the bill by striking out everything after the enacting clause and inserting in its place the following:

'17-A MRSA §105, as amended by PL 1975, c. 740, §27, is repealed and the following enacted in its place: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 a reasonable degree of 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 upon another to protect his property:

A. When and to the degree he reasonably believes the deadly force is immediately necessary:

(1) To prevent the other's imminent commission of burglary, robbery, theft by unauthorized taking in the nighttime, aggravated criminal mischief in the nighttime or criminal mischief in the nighttime; or

(2) To prevent the other who is fleeing, immediately after committing burglary, robbery or theft by unauthorized taking in the nighttime, from escaping with the property; and

When
B./ he reasonably believes that:

(1) The property cannot be recovered by any other means; or

(2) The use of force, other than deadly force, to protect the property would expose the actor to a substantial risk of death or serious bodily injury.'

Statement of Fact

This amendment deletes the sections of the bill that sought to change the provisions of the Maine Criminal Code pertaining to the use of deadly force by a person in control of a dwelling place. Instead, the amendment seeks only to replace the provisions of the Maine Criminal Code that deal with the use of force in defense of property. Specifically, the amendment offers a version of Title 17-A, section 105, subsection 2, that differs from that offered in section 4 of the bill. The amendment details the types of property offenses which justify the use of deadly force and more clearly describes the types of reasonable beliefs that a person must have before he uses deadly force to protect property.

Reported by the Minority of the Committee on Judiciary.
Reproduced and distributed under the direction of the Clerk of the House.