

# MAINE STATE LEGISLATURE

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# 114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

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Legislative Document

No. 1148

H.P. 820

House of Representatives, April 12, 1989

Reference to the Committee on Judiciary suggested and ordered printed.

A handwritten signature in cursive script that reads "Ed Pert".

EDWIN H. PERT, Clerk

Presented by Representative PARADIS of Augusta.  
Cosponsored by Representative PAUL of Sanford.

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STATE OF MAINE

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IN THE YEAR OF OUR LORD  
NINETEEN HUNDRED AND EIGHTY-NINE

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An Act to Provide for the Forfeiture of Firearms Used to Commit  
Crimes.

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

3 17-A MRSA §1158 is enacted to read:

5 **§1158. Forfeiture of firearms**

7 As part of every judgment of conviction and sentence  
8 imposed, every firearm used by, or in the possession or under the  
9 control of, the defendant or any accomplice during the commission  
10 of any offense shall be forfeited to the State and the court  
11 shall so order, unless another person can satisfy the court prior  
12 to the judgment and by a preponderance of the evidence that such  
13 other person had a right to possess the firearm, to the exclusion  
14 of the defendant, at the time of the offense.

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18 **STATEMENT OF FACT**

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20 Like many other forfeiture laws, under this bill the State  
21 takes possession and ownership of firearms used in the commission  
22 of a crime unless someone not involved in the offense can  
23 demonstrate a right to that weapon. This exception protects  
24 someone from whom the firearm was stolen. Unlike many of the  
25 other forfeiture provisions, forfeiture under this bill depends  
26 upon actual conviction, so the State's burden of persuasion on  
27 some issues is much higher than in the normal civil forfeiture  
28 provision. Unlike cars, boats, airplanes and houses, firearms  
29 are usually not registered nor is there some certificate of title  
30 or central repository of ownership information, so it is  
31 difficult to require the same sort of formal notice provided for  
32 other property subject to forfeiture. The serial numbers of  
33 stolen firearms are, however, generally available to law  
34 enforcement agencies.

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