

MAINE STATE LEGISLATURE

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114th MAINE LEGISLATURE

FIRST REGULAR SESSION - 1989

Legislative Document

No. 1158

H.P. 826

House of Representatives, April 12, 1989

Approved for introduction by a majority of the Legislative Council pursuant to Joint Rule 27.

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 RUHLIN of Brewer.

Cosponsored by Representative O'DEA of Orono, Representative PLOURDE of Biddeford and Senator ESTES of York.

STATE OF MAINE

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

**An Act to Strengthen Criminal Drug Laws in the State by Allowing
Forfeiture of Firearms and Other Dangerous Weapons.**

(AFTER DEADLINE)



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

3 **Sec. 1. 15 MRSA §5821, sub-§3,** as enacted by PL 1987, c. 420,
5 §2, is amended to read:

7 **3. Other property.** All property which is used or intended
9 for use as a container for property described in subsection 1 or
11 2, and all property which is used or intended for use to defend,
12 protect, guard or secure any property or items described in
13 subsection 1 or 2;

14 **Sec. 2. 15 MRSA §5821, sub-§3-A** is enacted to read:

15 **3-A. Firearms and other weapons.** Law enforcement officers
16 may seize all firearms and dangerous weapons that they may find
17 in any successful search for scheduled drugs. Except for those
18 seized weapons listed in a petition filed in the Superior Court
19 pursuant to section 5822, all weapons seized shall be forfeited
20 to the State by the District Court 90 days after a list of the
21 weapons and drugs seized is filed in the District Court in the
22 district in which the weapons and drugs were seized. A weapon
23 shall not be forfeited if the owner appears prior to the
24 declaration of forfeiture and satisfies the court, by a
25 preponderance of evidence, of all of the following:

26 **A.** That the owner had a possessory interest in the weapon
27 at the time of the seizure sufficient to exclude every
28 person involved with the seized drugs or every person at the
29 site of the seizure;

30 **B.** That the owner had no knowledge of or involvement with
31 the drugs and was not at the site of the seizure; and

32 **C.** That the owner had not given any involved person
33 permission to possess or use the weapon.

34 Post-hearing procedures shall be as provided in section 5822.

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38 **STATEMENT OF FACT**

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43 This bill requires the forfeiture of firearms and other
44 dangerous weapons used by drug dealers to protect themselves,
45 their drugs and their drug proceeds. Section 1 of the bill
46 covers not only firearms, but also other property used by drug
47 dealers to protect themselves such as knives, brass knuckles and
48 tear gas masks. Section 1 is also broad enough to allow, but not
49 compel, the forfeiture of pit bulls and other dangerous animals
50 used by drug dealers to defend their property, their drugs and
51 themselves.

1 Section 2 of this bill provides for the immediate seizure of
2 firearms and other weapons found by law enforcement officials in
3 successful searches for scheduled drugs, and sets out a mechanism
4 for their accelerated forfeiture.

5
6 This bill is a component of the Attorney General's drug
7 enforcement legislative package.