

MAINE STATE LEGISLATURE

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117th MAINE LEGISLATURE

FIRST REGULAR SESSION-1995

Legislative Document

No. 450

H.P. 329

House of Representatives, February 8, 1995

**An Act to Limit the Use of Force against Law Enforcement Officers
Engaged in Searches and Seizures.**

(EMERGENCY)

Received by the Clerk of the House on February 6, 1995. Referred to the Committee on Criminal Justice and ordered printed pursuant to Joint Rule 14.

A handwritten signature in black ink that reads "Joseph W. Mayo".

JOSEPH W. MAYO, Clerk

Presented by Representative PLOWMAN of Hampden.
Cosponsored by Representatives: CARLETON of Wells, FARNUM of South Berwick,
HARTNETT of Freeport, LINDAHL of Northport, Senator: MILLS of Somerset.

2 **Emergency preamble.** Whereas, Acts of the Legislature do not
become effective until 90 days after adjournment unless enacted
as emergencies; and

4
6 Whereas, it is vitally important that the law be clarified
concerning the use of force against law enforcement officers who
are conducting searches and seizures in good faith without using
8 unlawful force; and

10 Whereas, in the judgment of the Legislature, these facts
create an emergency within the meaning of the Constitution of
12 Maine and require the following legislation as immediately
necessary for the preservation of the public peace, health and
14 safety; now, therefore,

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

18 **Sec. 1. 17-A MRSA §104, sub-§§1 and 3,** as enacted by PL 1975,
c. 740, §26, are amended to read:

20
22 1. A Except as provided in section 104-A, a person in
possession or control of premises or a person who is licensed or
24 privileged to be thereon on the premises is justified in using
nondeadly force upon another when and to the extent that he the
26 person reasonably believes it necessary to prevent or terminate
the commission of a criminal trespass by ~~such--other~~ another
person in or upon ~~such~~ those premises.

28
30 3. A Except as provided in section 104-A, a person in
possession or control of a dwelling place or a person who is
32 licensed or privileged to be therein in that dwelling is
justified in using deadly force upon another:

34 A. Under the circumstances enumerated in section 108; or

36 B. When ~~he~~ that person reasonably believes that deadly
force is necessary to prevent or terminate the commission of
38 a criminal trespass by such other person, who ~~he~~ the person
reasonably believes:

40 (1) Has entered or is attempting to enter the dwelling
42 place or has surreptitiously remained within the
dwelling place without a license or privilege to do so;
44 and

46 (2) Is committing or is likely to commit some other
crime within the dwelling place.

48 **Sec. 2. 17-A MRSA §104-A** is enacted to read:

2 **§104-A. Limitation on the use of force against law enforcement**
 officer engaged in search or seizure

4 1. A person is not justified in using force against a law
 enforcement officer engaged in a search or a seizure if:

6 A. The officer has made reasonable efforts to advise the
8 person that the officer is a law enforcement officer acting
 in accordance with that officer's duty;

10 B. The person knows or has reason to know that the officer
12 is a law enforcement officer acting in accordance with that
 officer's duty;

14 C. The officer acts in good faith; and

16 D. The officer does not use unlawful force in carrying out
18 the search or seizure.

20 **Emergency clause.** In view of the emergency cited in the
 preamble, this Act takes effect when approved.

22
24 **STATEMENT OF FACT**

26 This bill enacts a new provision in the Maine Criminal Code
 that provides that a person is not justified in using force
28 against a law enforcement officer engaged in a search or a
 seizure if certain circumstances are met.