

MAINE STATE LEGISLATURE

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129th MAINE LEGISLATURE

FIRST REGULAR SESSION-2019

Legislative Document

No. 533

H.P. 390

House of Representatives, January 31, 2019

An Act To Eliminate the Statutory Duty To Retreat and Affirm the Right of Self-defense

Reference to the Committee on Criminal Justice and Public Safety suggested and ordered printed.

A handwritten signature in cursive script that reads "Robert B. Hunt".

ROBERT B. HUNT
Clerk

Presented by Representative ANDREWS of Paris.
Cosponsored by Senator BLACK of Franklin and
Representatives: DeVEAU of Caribou, HARRINGTON of Sanford, JOHANSEN of
Monticello, LYFORD of Eddington, MARTIN of Eagle Lake, MORRIS of Turner, PICKETT
of Dixfield, STEWART of Presque Isle.

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

2 **Sec. 1. 17-A MRSA §108, sub-§2, ¶C**, as amended by PL 2007, c. 173, §24, is
3 further amended to read:

4 C. However, a person is not justified in using deadly force as provided in paragraph
5 A if:

6 (1) With the intent to cause physical harm to another, the person provokes such
7 other person to use unlawful deadly force against anyone;

8 (2) The person knows that the person against whom the unlawful deadly force is
9 directed intentionally and unlawfully provoked the use of such force; or

10 (3) The person knows that the person or a 3rd person can, with complete safety:
11 surrender property to a person asserting a colorable claim of right to the property.

12 ~~(a) Retreat from the encounter, except that the person or the 3rd person is not~~
13 ~~required to retreat if the person or the 3rd person is in the person's dwelling~~
14 ~~place and was not the initial aggressor;~~

15 ~~(b) Surrender property to a person asserting a colorable claim of right~~
16 ~~thereto; or~~

17 ~~(c) Comply with a demand that the person abstain from performing an act~~
18 ~~that the person is not obliged to perform.~~

19 **Sec. 2. 17-A MRSA §108, sub-§3** is enacted to read:

20 3. A person justified in using deadly force under subsection 2 is not required to
21 retreat from the encounter if the person reasonably believes that using deadly force is
22 necessary to prevent the death of or serious bodily injury to the person or a 3rd person or
23 to prevent the commission of a kidnapping, a robbery or a violation of section 253,
24 subsection 1, paragraph A.

25 **SUMMARY**

26 This bill removes the requirements that a person retreat if it is safe to do so and if the
27 person can comply with a demand that the person abstain from performing an act that the
28 person is not obliged to perform. The bill also permits the use of deadly force to prevent
29 death or serious bodily injury in self-defense, in defense of a 3rd person, in defense of a
30 dwelling or to prevent the forcible commission of a kidnapping, a robbery or a gross
31 sexual assault.