Home Break-Ins and Self-Defense: Maine and New Hampshire Law

Purpose. This document summarizes selected state statutes concerning defense of a home, defense of a person, and unlawful entry. It is general information, not legal advice. Statutory language and the facts of an incident matter.

1. Maine

Maine law distinguishes ordinary criminal trespass from circumstances that may justify deadly force. Under 17-A M.R.S. § 104(1), a person in possession or control of premises, or legally entitled to be there, may use nondeadly force when and to the extent reasonably believed necessary to prevent or terminate criminal trespass.

Section 104(2) separately addresses deadly force reasonably believed necessary to prevent an attempt to commit arson.

Under § 104(3), deadly force in a dwelling may be justified under the circumstances described in § 108, or when the person reasonably believes deadly force is necessary to prevent or terminate criminal trespass by someone believed to have unlawfully entered, attempted to enter, or secretly remained in the dwelling and to be committing or likely to commit another crime inside.

Section 104(4) generally requires a demand that the trespasser terminate the trespass and failure to comply immediately, unless the person reasonably believes making the demand would be dangerous to them or another person.

Maine's defense-of-person statute, 17-A M.R.S. § 108, includes specific circumstances for deadly force, such as a reasonable belief that another person is about to use unlawful deadly force, or certain serious offenses. It also addresses an unlawful entrant in a dwelling when deadly force is reasonably believed necessary to prevent bodily injury to someone present. The full statute includes further conditions and limitations.

2. New Hampshire

New Hampshire RSA 627:7 permits nondeadly force, when reasonably believed necessary, to prevent or terminate criminal trespass. It permits deadly force in defense of premises only in defense of a person as allowed by RSA 627:4, or when reasonably believed necessary to prevent an attempt by a trespasser to commit arson.

RSA 627:4 addresses defense of a person. Deadly force may be justified only under the circumstances and conditions set out in that statute, including certain situations involving an imminent threat of deadly force or specified serious crimes. The exact statutory conditions, exceptions, and limitations must be reviewed for the particular facts.

RSA 627:8 addresses force in property offenses. It permits force reasonably believed necessary in certain circumstances to prevent an unlawful taking or criminal mischief, or to retake property immediately after it is taken, but deadly force is permitted under that section only in defense of a person as prescribed by RSA 627:4.

3. Practical distinctions

- A person unlawfully entering a home is not, by that fact alone, an automatic legal justification for shooting them.
- The legal analysis may change if the intruder threatens a person, commits or appears likely to commit another crime inside the dwelling, or attempts arson.
- Deadly force cannot be used simply to punish an offender, protect property in ordinary circumstances, or stop someone from fleeing unless a separate legal justification applies.
- If a break-in is occurring, prioritize getting to safety and call 911. Avoid confronting the intruder if you can safely avoid doing so.

4. Official statutory sources

- **Maine — 17-A M.R.S. § 104, Use of force in defense of premises:** https://www.mainelegislature.org/legis/statutes/17-a/title17-Asec104.html
- **Maine — 17-A M.R.S. § 108, Physical force in defense of a person:** https://president.maine.gov/statutes/17-A/title17-Asec108.html
- **New Hampshire — RSA 627:7, Use of force in defense of premises:** https://gc.nh.gov/rsa/html/LXII/627/627-7.htm
- **New Hampshire — RSA 627:4, Physical force in defense of a person:** https://gc.nh.gov/rsa/html/LXII/627/627-4.htm
- **New Hampshire — RSA 627:8, Use of force in property offenses:** https://gc.nh.gov/rsa/html/LXII/627/627-8.htm

Important note: This summary is not a substitute for reading the current statutes or obtaining advice from a qualified attorney licensed in the relevant state. Maine and New Hampshire laws differ, and whether force is legally justified depends on the specific circumstances.