

THEMATIC TITLE	LEGAL PROBLEMS RELATING TO THE POSSESSION AND USE OF PEPPER SPRAY FOR SELF-DEFENSE
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ABSTRACT

In this independent study, the legal problems relating to the possession and use of pepper spray for self-defense under the Hazardous Substance Act B.E. 2535 (1992) are explored with the objectives to study: (1) the concepts and theories relating to the possession and use of pepper spray for self-defense; (2) the legal measures relating to the possession and use of pepper spray for self-defense in Thai laws and foreign laws; (3) the legal problems relating to the possession and use of pepper spray for self-defense; and (4) the solutions for aforementioned legal problems.

The results reveal the following problems: (1) problems on the possession of pepper spray for self-defense. The law stipulates that capsaicin, an active ingredient in pepper spray, is classified as a type 4 hazardous substance which is a controlled substance listed in the list of controlled substances attached to the notification of the Ministry of Industry. Manufacturing, importing, exporting or having in possession is considered an offense under the Hazardous Substance Act B.E. 2535 (1992), despite the fact that pepper spray is the best self-defense device. Due to such provisions of the law, people cannot legally exercise their rights or have freedoms to protect their lives or property using pepper spray; (2) problems on the use of pepper spray for self-defense. The fact that the law does not allow anyone to possess pepper spray means that a person is also not entitled to use pepper spray even for self-defense. This is because pepper spray contains capsaicin, the products containing this substance are prohibited from being used to temporarily disrupt the body's functioning for self-defense or to harm others. Contact with this substance causes a burning sensation at the contact area, burning nose,

burning eyes, coughing or sneezing. These symptoms resolve spontaneously within minutes and are not life-threatening. However, possession of pepper spray for self-defense purposes should not be illegal; (3) problems on penalties for possession and use of pepper spray for self-defense. In this regard, it is found that the Hazardous Substance Act B.E. 2535 (1992) stipulates penalties for those who violate or fail to comply with prohibitions on production, import, export or possession. The penalties imposed on the offender are excessive, inappropriate and inconsistent with the circumstance of the case involving the possession and use of pepper spray for self-defense without the intent of hurting others. As a result, no one owns pepper spray as he or she fears legal penalties. Thus, a person cannot protect himself/herself from danger in the event of an immediate event.

Therefore, the researcher has proposed as solutions to such legal problems to amend the Hazardous Substance Act B.E. 2535 (1992) by : (1) stipulating that any person who meets the requirements of the law can purchase and possess pepper spray for self-defense subject to the specified number of possession units and limit on the net weight of the pepper spray; (2) requiring persons in possession of pepper spray to use it for self-defense purposes only and requiring that pepper spray labels shall include warnings, instructions, first aid instructions, storage method and toll-free number for assistance; and (3) determining the punitive measures for those who violate or fail to comply with the law in the possession or use of pepper spray for self-defense and amending and determining the appropriate penalties for each case.