

MAINE STATE LEGISLATURE

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ONE HUNDRED AND EIGHTH LEGISLATURE

Legislative Document

No. 1085

S. P. 325

In Senate, March 23, 1977

Referred to the Committee on Business Legislation. Sent down for concurrence and ordered printed.

MAY M. ROSS, Secretary

Presented by Senator Conley of Cumberland.

STATE OF MAINE

IN THE YEAR OF OUR LORD NINETEEN HUNDRED
SEVENTY-SEVEN

AN ACT Concerning Ritual Burial by Certain Religious Groups.

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

32 MRSA § 1406 is enacted to read:

§ 1406. Ritual burial

Nothing contained in this chapter, shall be construed to prohibit, abridge or in any way hinder the religious freedom of any person or group. In order to protect freedom of religion, ritual burial of dead persons of a particular religious faith by religious burial societies of the same faith, in accordance with the tenets of that religion, are exempted from the terms of this chapter. For the purposes of this section, the term "ritual burial" of dead persons means burial in accordance with the ritualistic requirements of a religious faith.

STATEMENT OF FACT

The Portland Chevrah Kadisha (Holy Burial Society) of Portland, Maine, and its predecessor organizations have been preparing and conducting the burial of dead persons of the Jewish faith who, while alive have indicated, or whose family have indicated, a desire that the deceased be buried in accordance with Orthodox Jewish Law, for a period of time exceeding 80 years. This ritual has been conducted as early as there were Jewish settlers in the greater Portland area.

The Burial Society is a charitable organization and makes a charge to defray expenses. It also provides the service to persons of the Jewish faith who cannot afford to pay.

Prior to 1967, a license to engage in the funeral service profession was always provided by the Department of Health and Welfare to an individual who conducted the burial. Subsequent to 1967, when the present licensing law was passed, that individual's license was grandfathered. That particular individual is now going to retire. Since the license is personal to the individual rather than to the organization, the individual is required to attend an embalming school and pass a series of tests. The Jewish Orthodox Ritualistic Burial prohibits embalming.

Certain of the requirements of Title 32, chapter 21 which must be met in order for a person to be licensed for the practice of funeral service such as attendance at an embalming school, demonstration of proficiency in the embalming and restorative arts, necessary instruments and supplies for the preparation and embalming of dead human bodies, are forbidden by the Orthodox Jewish Law and, therefore, make it impossible for an individual of the Orthodox Jewish Religion to meet such statutory requirements and to obtain such license.