

MAINE STATE LEGISLATURE

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FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 761

H.P. 563 House of Representatives, March 13, 1987
Reference to the Committee on Legal Affairs suggested and
ordered printed.

EDWIN H. PERT, Clerk
Presented by Representative ROLDE of York.

STATE OF MAINE

IN THE YEAR OF OUR LORD
NINETEEN HUNDRED AND EIGHTY-SEVEN

1 AN ACT to Provide for the Preservation
2 and Care of Burial Places and Memorials for
3 the Dead.
4

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

7 17 MRSA c. 46 is enacted to read:

8 CHAPTER 46

9 PRESERVATION AND CARE OF BURIAL GROUNDS
10 AND MEMORIALS FOR THE DEAD

11 §1271. Definitions

12 As used in this chapter, unless the context indi-
13 cates otherwise, the following terms have the follow-
14 ing meanings.

1 1. Ancient burial ground. "Ancient burial
2 ground" means any tract of land within a municipality
3 which has been used for more than 100 years as a bur-
4 ial ground. The term does not apply to a burial
5 ground owned and maintained by a religious organiza-
6 tion or a cemetery corporation.

7 2. Burial ground authority. "Burial ground au-
8 thority" means the cemetery commissioners, park de-
9 partment or other authority having charge of public
10 burial grounds within the limits of a municipality.

11 §1272. Ancient burial ground to be preserved

12 A municipality shall not alienate or appropriate
13 for any use, other than that of a burial ground, any
14 ancient burial ground and no portion of such an an-
15 cient burial ground may be taken for public use with-
16 out authority from the Legislature. If such an an-
17 cient burial ground is appropriated for any other use
18 and the bodies buried in it or the monuments,
19 gravestones or other memorials are removed, the bur-
20 ial ground authority shall preserve a record of the
21 removal indicating the date of removal and the site
22 or place to which removal is made.

23 §1273. Care of neglected ancient burial grounds

24 Any municipality having within its limits an
25 abandoned or neglected ancient burial ground shall
26 take charge of it and keep it in good order and shall
27 repair or restore fences, tombs, monuments or other
28 structures in the burial ground, but no property
29 rights may be violated and no body may be disin-
30 terred.

31 §1274. Removal of gravestones and memorials

32 No fence, tomb, monument or gravestone within a
33 burial ground may be destroyed, defaced or removed,
34 except in accordance with this section. A gravestone
35 or other memorial for the dead which is more than 100
36 years old may be removed, with the approval of the
37 owner of the burial lot in which the gravestone or
38 memorial is placed or, if the owner is unknown, with
39 the approval of the burial ground authority, for the
40 purposes of repair or replacement, reproduction or

1 preservation and display in an accredited museum. Ap-
2 proval may be given by the burial ground authority
3 only after a 7-day notice of a hearing published in a
4 newspaper having a circulation in the municipality
5 where the burial ground is located and after a deter-
6 mination by the authority following the hearing that
7 removal is necessary or desirable for the protection
8 and preservation of the gravestone or memorial. The
9 owner of a burial lot who has not received notice of
10 hearing, after removal, may request replacement of a
11 gravestone or memorial so removed. The burial ground
12 authority, if it is satisfied that the person is the
13 owner of the burial lot, shall arrange for replace-
14 ment of the gravestones or memorial.

15 §1275. Penalty for damaging burial grounds, struc-
16 tures, trees or shrubs

17 Whoever intentionally destroys, mutilates, de-
18 faces, injures or removes, except as provided in sec-
19 tion 1274, a tomb, monument, gravestone or other
20 structure for a memorial for the dead, or a fence,
21 railing, curb or other enclosure for the burial of
22 the dead; intentionally destroys, mutilates, removes,
23 cuts, breaks or injures a tree, shrub or plant placed
24 within that enclosure; or intentionally disturbs the
25 contents of a tomb or a grave, commits a Class C
26 crime.

27 §1276. Additional penalty

28 Any person convicted under this chapter shall
29 pay, in addition to any fine or penalty imposed, tre-
30 ble damages to the burial ground authority, religious
31 organization, cemetery corporation or persons having
32 charge of the burial ground where the damage has been
33 sustained.

34 If the convicted offender is a minor, the court,
35 if it determines that the offender is unable to pay
36 treble damages, may require the offender to perform a
37 specified work program at the site where the damage
38 occurred for such period of time as, in the opinion
39 of the court, equals treble the amount of the dam-
40 ages sustained.

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STATEMENT OF FACT

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This bill provides for the preservation and protection of burial grounds and memorials for the dead.

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