

MAINE STATE LEGISLATURE

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(New Draft of H.P. 563, L.D. 761)
FIRST REGULAR SESSION

ONE HUNDRED AND THIRTEENTH LEGISLATURE

Legislative Document

NO. 1719

H.P. 1258 House of Representatives, June 2, 1987
Reported by Representative PRIEST from the Committee on
Legal Affairs and printed under Joint Rule 2.
EDWIN H. PERT, Clerk
Original bill sponsored by Representative ROLDE of York.

STATE OF MAINE

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

AN ACT to Provide for the Preservation and
Care of Burial Places and Memorials
for the Dead.

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

Sec. 1. 13 MRSA c. 83, sub-c. V is enacted to
read:

SUBCHAPTER V

PROTECTION AND PRESERVATION

§1371. Approval for repair, maintenance and removal

1 1. Prior authorization or approval for repair,
2 maintenance or removal. Any person may repair, main-
3 tain or remove, subject to the restrictions of sub-
4 section 2, any tomb, monument, gravestone, marker or
5 other structure placed or designed as a memorial to
6 the dead, or any portion of fragment of any such me-
7 morial, or any fence, railing, curb or other enclo-
8 sure for the burial of the dead, after obtaining:

9 A. The authorization of the owner of the burial
10 lot or a lineal descendent of the deceased buried
11 there, if reasonable to locate and notify; or

12 B. The written approval of the municipality or,
13 in the case of unorganized territory, the county
14 in which the cemetery or burial ground is lo-
15 cated.

16 2. Conditions on removal. Removal of any tomb,
17 monument, gravestone, marker or other structure
18 placed or designed as a memorial to the dead, or any
19 portion of fragment of any such memorial, is permit-
20 ted only for the purpose of preservation. Any tomb,
21 monument, gravestone, marker or other structure
22 placed or designed as a memorial to the dead, or any
23 portion of fragment of any such memorial, must not be
24 removed from the confines of the cemetery or burial
25 ground.

26 §1372. Inventories of cemeteries or burial grounds

27 A municipality or, in the case of unorganized
28 territory, a county may contract with a cemetery as-
29 sociation or historical society to undertake, com-
30 plete and keep current an inventory of cemeteries and
31 burial grounds located in that municipality or coun-
32 ty.

33 §1373. Authority to maintain

34 A municipality may authorize any cemetery associ-
35 ation or historical society to maintain any cemetery
36 or burial ground owned, maintained or operated by the
37 municipality.

38 Sec. 2. 17-A MRSA §§507-A and 507-B are enacted
39 to read:

1 §507-A. Interference with cemetery or burial ground

2 1. No person may intentionally or knowingly de-
3 stroy, mutilate, deface, injure or remove any tomb,
4 monument, gravestone, marker or other structure
5 placed or designed as a memorial for the dead, or any
6 portion or fragment of any such memorial, or any
7 fence, railing, curb or other enclosure for the bur-
8 ial of the dead.

9 2. Subsection 1 does not apply to any person:

10 A. Who performs an act as authorized under Title
11 13, section 1371; or

12 B. Who meets the requirements governing eminent
13 domain as established by state or federal law.

14 3. Any person who violates subsection 1 commits
15 a Class D crime.

16 §507-B. Illegal possession or sale of gravestones

17 1. No person may possess, sell, attempt to sell,
18 offer for sale, transfer or dispose of any tomb, mon-
19 ument, gravestone, marker or other structure placed
20 or designed as a memorial for the dead, or any por-
21 tion or fragment of any such memorial, knowing or
22 having reasonable cause to know that it has been il-
23 legally removed from a cemetery or burial ground.

24 2. Any person who violates subsection 1 commits
25 a Class C crime.

26 3. Any person who violates subsection 1 is lia-
27 ble to the following for triple damages to be recov-
28 ered in a civil action:

29 A. The municipality or, in the case of unorga-
30 nized territory, the county in which the cemetery
31 or burial ground is located;

32 B. A cemetery association authorized to bring
33 suit and recover damages by the municipality or,
34 in the case of unorganized territory, the county
35 in which the cemetery or burial ground is lo-
36 cated; or

1 C. A historical society authorized to bring suit
2 and recover damages by the municipality or, in
3 the case of unorganized territory, the county in
4 which the cemetery or burial ground is located.

5 STATEMENT OF FACT

6 This new draft enacts a new subchapter in the
7 Maine Revised Statutes, Title 13 concerning the pres-
8 ervation and protection of cemeteries and burial
9 grounds. The first section provides that a person
10 may repair, maintain or remove a tomb, monument,
11 gravestone, marker or other structure, if he has been
12 authorized to do so by the owner of the burial lot or
13 a lineal descendent of the person buried there. This
14 is not intended to place unreasonable burdens on any
15 person trying to repair, maintain or preserve a ceme-
16 tery or burial ground; therefore, if a lineal de-
17 scendent cannot be located and notified after reason-
18 able efforts, the person is not required to pursue
19 the matter. Instead, the municipality or county, if
20 unorganized territory is involved, may give written
21 approval for the repair, maintenance or removal for
22 preservation. Municipal or county approval is an al-
23 ternative to the authorization of the owner of the
24 burial lot or a lineal descendent.

25 This new draft allows municipalities and counties
26 to authorize cemetery associations and historical so-
27 cieties to inventory cemeteries and burial grounds
28 located there.

29 The new draft allows municipalities to authorize
30 cemetery associations or historical societies to
31 maintain cemeteries or burial grounds located in the
32 municipality for which the municipality is responsi-
33 ble.

34 This new draft makes it a Class D crime to inten-
35 tionally or knowingly interfere with a cemetery or
36 burial ground without the authorization of the owner
37 of the burial lot or a lineal descendent of the per-
38 son buried there or without the written approval of
39 the municipality. This crime does not apply to emi-
40 nent domain proceedings.

1 In addition, this new draft makes it a Class C
2 crime to possess, sell, attempt to sell, offer to
3 sell, transfer or dispose of the whole or part of any
4 tomb, monument, gravestone, marker or other struc-
5 ture, including the fence or other enclosure. A per-
6 son who does so is liable for triple the amount of
7 damages suffered. The municipality or county may re-
8 cover the damages in a civil suit, or may authorize a
9 cemetery association or historical society to sue the
10 violator and collect the damages.

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