

MAINE STATE LEGISLATURE

The following document is provided by the
LAW AND LEGISLATIVE DIGITAL LIBRARY
at the Maine State Law and Legislative Reference Library
<http://legislature.maine.gov/lawlib>



Reproduced from scanned originals with text recognition applied
(searchable text may contain some errors and/or omissions)

R. of S.

L.D. 1894

(Filing No. S-560)

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48

STATE OF MAINE
SENATE
114TH LEGISLATURE
SECOND REGULAR SESSION

COMMITTEE AMENDMENT " A " to S.P. 719, L.D. 1894, Bill, "An Act to Increase the Penalty for Desecration of a Cemetery"

Amend the bill by striking out all of the title and inserting in its place the following:

'An Act to Facilitate Enforcement of Penalties for Desecration of a Cemetery'

Further amend the bill by striking out everything after the title and before the statement of fact and inserting in its place the following:

'Emergency preamble. Whereas, Acts of the Legislature do not become effective until 90 days after adjournment unless enacted as emergencies; and

Whereas, the current law regarding criminal trespass is difficult to enforce against persons who trespass in cemeteries at night; and

Whereas, trespassers in cemeteries, particularly in the summer months, have caused considerable damage to headstones, crypts and other property in cemeteries and emotional distress to those whose loved ones' graves have been desecrated; and

Whereas, in the judgment of the Legislature, these facts create an emergency within the meaning of the Constitution of Maine and require the following legislation as immediately necessary for the preservation of the public peace, health and safety; now, therefore,

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

17-A MRSA §402, as amended by PL 1981, c. 317, §11, is further amended to read:

R. of S.

§402. Criminal trespass

2
4
6
8
10
12
14
16
18
20
22
24
26
28
30
32
34
36
38
40
42
44
46
48
50
52

1. A person is guilty of criminal trespass if, knowing that he that person is not licensed or privileged to do so, that person:

A. ~~He-enters~~ Enters any dwelling place;

B. ~~He-enters~~ Enters any structure that is locked or barred;

C. ~~He-enters~~ Enters any place from which he that person may lawfully be excluded and which that is posted in a manner prescribed by law or in a manner reasonably likely to come to the attention of intruders or which that is fenced or otherwise enclosed in a manner designed to exclude intruders;

D. ~~He-remains~~ Remains in any place in defiance of a lawful order to leave, ~~which that~~ was personally communicated to him that person by the owner or ~~ether~~ another authorized person; ~~or~~

E. ~~He-enters~~ Enters any place in defiance of a lawful order not to enter, ~~which that~~ was personally communicated to him that person by the owner or ~~ether~~ another authorized person; or

F. Enters or remains in a cemetery or burial ground at any time between 1/2 hour after sunset and 1/2 hour before sunrise the following day, unless that person enters or remains in the cemetery or burial ground at a time between 1/2 hour after sunset and 1/2 hour before sunrise the following day, during which visitors are permitted to enter or remain in the cemetery or burial ground by municipal ordinance or, in the case of a privately owned and operated cemetery, by posting.

2. Violation of subsection 1, paragraph A, is a Class D crime. Violation of subsection 1, paragraph B, C, D ~~or~~, E, or F is a Class E crime.

Emergency clause. In view of the emergency cited in the preamble, this Act takes effect when approved.'

STATEMENT OF FACT

The amendment replaces the bill and makes it a Class E crime to enter or remain in a cemetery or burial ground at any time between 1/2 hour after sunset and 1/2 hour before sunrise the following day unless the cemetery's open hours have been extended by a municipality or by the owner or operator of a privately owned cemetery.

COMMITTEE AMENDMENT "A" to S.P. 719, L.D. 1894

2 The amendment changes the bill's title to reflect more
accurately its intent as amended and adds an emergency preamble
and clause.

4
6 The amendment also makes Maine Revised Statutes, Title 17-A,
section 402 gender neutral.

Reported by Senator Matthews for the Committee on Legal Affairs.
Reproduced and Distributed Pursuant to Senate Rule 12.
(3/7/90) (Filing No. S-560)