

MAINE STATE LEGISLATURE

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M
R. of S.

L.D. 2373

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DATE: 3/6/2000

(Filing No. S-521)

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BANKING AND INSURANCE

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Reported by:

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**STATE OF MAINE
SENATE
119TH LEGISLATURE
SECOND REGULAR SESSION**

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COMMITTEE AMENDMENT "A" to S.P. 922, L.D. 2373, Bill, "An
Act to Prevent Misuse of Mortuary Trust Funds"

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24
Amend the bill by inserting after the title and before the
enacting clause the following:

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

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Whereas, in the last year there have been incidents
involving the misuse of mortuary trust funds by funeral
directors; and

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Whereas, the provisions in this Act amend the laws governing
mortuary trust funds to limit the actual handling of mortuary
trust funds by funeral directors; and

38
Whereas, this Act is needed for the protection of Maine
consumers; and

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42
44
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, '

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50
Further amend the bill in section 1 in paragraph A in the
last line (page 1, line 22 in L.D.) by inserting after the
following: "deposited" the following: 'and to include on the
instrument the name of the mortuary trustee and the person for
whose benefit the payment was made'

COMMITTEE AMENDMENT

2 Further amend the bill in section 1 in paragraph E in the
3rd line from the end (page 2, line 29 in L.D.) by striking out
4 the following: "proof of death" and inserting in its place the
following: 'a certified copy of the death certificate'

6
Further amend the bill by striking out all of section 2 and
8 inserting in its place the following:

10 'Sec. 2. 32 MRSA §1401, sub-§3, as enacted by PL 1999, c. 258,
§2 and affected by §3, is amended to read:

12
14 **3. Financial institution or credit union liability.** The
financial institution or credit union is discharged from
16 liability for direct payment of the funds in an account under
subsection 1 to another financial institution or credit union or
18 to the payor, upon presentation of a written consent to
withdrawal signed by the payor or the payor's legal
representative and by the payee or upon withdrawal of the funds
20 by the payee upon presentation of ~~preef~~ a certified copy of the
death certificate of the person for whose benefit the funds were
22 paid.

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

26
Further amend the bill by inserting at the end before the
28 summary the following:

30
32 **'FISCAL NOTE**

34 This bill may increase prosecutions for Class E crimes. If
a jail sentence is imposed, the additional costs to the counties
are estimated to be \$83.36 per day per prisoner. The number of
36 prosecutions that may result in a jail sentence and the resulting
costs to the county jail system are expected to be insignificant.

38
The additional workload and administrative costs associated
40 with the minimal number of new cases filed in the court system
can be absorbed within the budgeted resources of the Judicial
42 Department. The collection of additional fines may increase
General Fund revenue by minor amounts.

44
The additional costs associated with additional rulemaking
46 can be absorbed by the Office of Licensing and Registration
within the Department of Professional and Financial Regulation
48 utilizing existing budgeted resources.'

R. S.

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SUMMARY

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6 This amendment requires that the names of the mortuary
8 trustee and the person for whose benefit the payment is made
10 appear on the check, share draft or money order made payable to
12 the financial institution or credit union into which mortuary
14 trust funds are to be deposited. The amendment also requires
that withdrawal of mortuary trust funds may be made only upon
presentation of a certified copy of the death certificate of the
person for whose benefit the funds were paid. The amendment also
clarifies the liability of a financial institution or credit
union for payment of funds in a mortuary trust account.

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The amendment also adds an emergency preamble, emergency
clause and a fiscal note to the bill.