

# MAINE STATE LEGISLATURE

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Date: 4/20/17

(Filing No. H-109 )

**STATE AND LOCAL GOVERNMENT**

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**STATE OF MAINE  
HOUSE OF REPRESENTATIVES  
123RD LEGISLATURE  
FIRST REGULAR SESSION**

COMMITTEE AMENDMENT "A" to H.P. 401, L.D. 523, Bill, "An Act To Provide for Enforcement of Land Use Limitations Relating to Cemeteries"

Amend the bill by striking out sections 1 and 2 and inserting the following:

Sec. 1. 13 MRSA §1035 is amended to read:

**§1035. Penalties**

~~Whoever~~ Except as otherwise provided in this chapter, a person who fails to comply with or violates any of the provisions of this chapter in respect to the establishment, maintenance or operation of a cemetery, community mausoleum, crematory or columbarium; or to the disposal of dead human bodies shall, unless another penalty is provided under this chapter, be punished by a fine of not less than \$100 nor more than \$500, or by imprisonment for not more than 6 months, or by both commits a Class E crime except that, notwithstanding Title 17-A, section 1301, the fine may not be less than \$100 or more than \$500.

Sec. 2. 13 MRSA §1371-A, sub-§1, as enacted by PL 1991, c. 412, §2, is amended to read:

1. **Known burial sites.** Construction or excavation ~~in the area of~~ near a known burial site or within the boundaries of an established ~~graveyard~~ cemetery must comply with any applicable land use ordinance concerning burial sites or ~~graveyards~~ established cemeteries, whether or not the burial site or ~~graveyard~~ established cemetery is properly recorded in the deed to the property. In the absence of local ordinances, construction or excavation may not be conducted within 25 feet of a known burial site or within 25 feet of the boundaries of an established ~~graveyard~~ cemetery, whichever is the greater, whether or not the burial site or ~~graveyard~~ established cemetery is properly recorded in the deed to the property, except when the construction or excavation is performed pursuant to a lawful order or permit allowing the relocation of bodies or when necessary for the construction of a public improvement, as approved by the governing body of a city or town or, in the case of a state highway, by the Commissioner of Transportation. A

**COMMITTEE AMENDMENT**



COMMITTEE AMENDMENT "A" to H.P. 401, L.D. 523

1 municipality may enforce this subsection or any local ordinance concerning burial sites or  
2 established cemeteries pursuant to Title 30-A, section 4452, including the assessment of  
3 civil penalties.  
4 In the event of any violation of this subsection, the Attorney General may seek to enjoin a  
5 further violation, in addition to any other remedy.

6 **Sec. 3. 13 MRSA §1371-A, sub-§3**, as enacted by PL 1991, c. 412, §2, is  
7 amended to read:

8 **3. Application.** This section applies only to burial sites and graveyards established  
9 cemeteries containing the bodies of humans.'

10 Amend the bill in section 5 in paragraph T in the first line (page 1, line 28 in L.D.) by  
11 inserting after the following: "sites" the following: 'and established cemeteries'

12 Amend the bill by relettering or renumbering any nonconsecutive Part letter or  
13 section number to read consecutively.

14 **SUMMARY**

15 This amendment specifies that a violation of statutory limitations on construction and  
16 excavation near burial sites is a civil violation punishable by fines set in the Maine  
17 Revised Statutes, Title 30-A, section 4452 between \$100 and \$2,500 that may be assessed  
18 on a per-day basis. It also allows for the Attorney General's office to seek injunctive  
19 relief. The language in Title 13, section 1035 is amended to conform with updated  
20 statutes in Title 17-A, and section 1371-A is amended to conform to the rest of the  
21 chapter by replacing "graveyard" with "established cemetery."

22 **FISCAL NOTE REQUIRED**  
23 (See attached)



Approved: 04/12/07 *MAC*

# 123rd MAINE LEGISLATURE

LD 523

LR 1051(02)

**An Act To Provide for Enforcement of Land Use Limitations Relating to Cemeteries**

**Fiscal Note for Bill as Amended by Committee Amendment "A"**

**Committee: State and Local Government**

**Fiscal Note Required: Yes**

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## Fiscal Note

Minor cost increase - General Fund  
Minor revenue increase - General Fund

### Correctional and Judicial Impact Statements

This bill may increase the number of civil suits filed in the court system.

The collection of additional filing fees may also increase General Fund revenue by minor amounts.