

# MAINE STATE LEGISLATURE

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# 125th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2011

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**Legislative Document**

**No. 1265**

S.P. 386

In Senate, March 23, 2011

### **An Act To Allow the Unclaimed Remains of a Veteran To Have Proper Burial**

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Reference to the Committee on Veterans and Legal Affairs suggested and ordered printed.

*Joseph G. Carleton Jr.*

JOSEPH G. CARLETON, JR.  
Secretary of the Senate

Presented by Senator FARNHAM of Penobscot.

Cosponsored by Representative DAMON of Bangor and

Senator: PLOWMAN of Penobscot, Representatives: LONGSTAFF of Waterville, PARKER of Veazie, VALENTINO of Saco, WINTLE of Garland.

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

2               **Sec. 1. 22 MRSA §2900** is enacted to read:

3       **§2900. Cremated remains of a veteran**

4               **1. Definitions.** As used in this section, unless the context otherwise indicates, the  
5       following terms have the following meanings.

6               A. "National cemetery" means a cemetery under the control of the United States  
7       Department of Veterans Affairs, National Cemetery Administration.

8               B. "Veteran" means a person who served in and was honorably discharged from  
9       active duty:

10              (1) In the Armed Forces of the United States;

11              (2) In the Army or Air Force National Guard in a full-time status; or

12              (3) As a reservist in the Armed Forces of the United States.

13              C. "Veterans' service organization" means an association, corporation or other entity  
14       that qualifies under Section 501(c)(3) or Section 501(c)(19) of the United States  
15       Internal Revenue Code of 1986, as amended, as a tax-exempt organization that has  
16       been organized for the benefit of veterans and recognized or chartered by the United  
17       States Congress or a nonprofit corporation, association or entity that specifically  
18       assists in facilitating the identification and interment of unclaimed remains of  
19       veterans.

20              **2. Cremated remains of veterans.** A funeral director or other authorized person  
21       who has held in the funeral director's or other authorized person's possession the cremated  
22       remains of a veteran for more than 120 days from the date of cremation may determine  
23       pursuant to the provisions of this section if the cremated remains are those of a veteran  
24       and, if the funeral director or other authorized person determines that the cremated  
25       remains are those of a veteran, the funeral director or other authorized person may  
26       dispose of the remains pursuant to this section.

27              **3. Sharing information.** Notwithstanding any other provision of law, a funeral  
28       director or other authorized person under subsection 2 may share information concerning  
29       cremated remains in the funeral director's or other authorized person's possession with the  
30       United States Department of Veterans Affairs, a veterans' service organization or a  
31       national cemetery to determine whether the cremated remains are those of a veteran.

32              **4. Disposition of veterans' remains.** If a funeral director or other authorized person  
33       determines that cremated remains in the funeral director's or other authorized person's  
34       possession are those of a veteran pursuant to this section and the funeral director or other  
35       authorized person has not received instructions as to the final disposition of the cremated  
36       remains from the person lawfully in control of the final disposition of the cremated  
37       remains, the funeral director or other authorized person may dispose of the cremated  
38       remains or relinquish possession of the cremated remains to a veterans' service  
39       organization pursuant to section 2843 and this subsection. The cremated remains of a

1 veteran disposed of or relinquished pursuant to this subsection must be finally disposed of  
2 in a national cemetery or other government-owned or government-operated veterans'  
3 cemetery or in a cemetery or with a cemetery corporation under Title 13, chapter 83  
4 where veterans' graves are memorialized by a veterans' marker or that has a veterans'  
5 section.

6 **5. Release from liability.** A funeral director, other authorized person or veterans'  
7 service organization is not liable and is released from any legal obligation other than a  
8 legal obligation imposed under this section regarding the release or sharing of  
9 information or the disposing of or relinquishing of the remains of a veteran, except in the  
10 case of gross negligence or willful misconduct.

11 **6. Reimbursement.** The estate of a veteran whose remains are the subject of  
12 disposition under this section is responsible for reimbursing a funeral director, other  
13 authorized person or veterans' service organization for all reasonable expenses incurred in  
14 activities conducted under this section.

15 **7. Record.** A funeral director or other authorized person shall maintain a record  
16 identifying a veterans' service organization that receives a veteran's remains from the  
17 funeral director or other authorized person under this section and of the site designated  
18 for final disposition of the veteran's remains relinquished or disposed of by the funeral  
19 director or other authorized person under this section.

20 **8. Duty of funeral director or other authorized person.** This section does not  
21 require a funeral director or other authorized person to determine the veteran status of  
22 cremated remains in the funeral director's or other authorized person's possession or to  
23 relinquish or dispose of a veteran's remains in the funeral director's or other authorized  
24 person's possession pursuant to this section if the funeral director or other authorized  
25 person has a reasonable belief or is instructed by the person in lawful control of the  
26 disposition of the veteran's remains that the veteran did not desire a funeral, burial-related  
27 services or ceremonies recognizing the veteran as a veteran.

## 28 SUMMARY

29 This bill allows a funeral director or other authorized person to determine the veteran  
30 status of cremated remains left in the possession of the funeral director or other  
31 authorized person for over 120 days and, if the remains are those of a veteran, to  
32 relinquish control of or dispose of the remains to a veterans' service organization to be  
33 finally disposed of in a national cemetery or other cemetery that memorializes or  
34 recognizes the graves of veterans.