

MAINE STATE LEGISLATURE

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131st MAINE LEGISLATURE

FIRST REGULAR SESSION-2023

Legislative Document

No. 762

S.P. 320

In Senate, February 16, 2023

**An Act to Authorize Burials with Biodegradable Containers,
Including Tree Pods**

Reference to the Committee on Health and Human Services suggested and ordered printed.

A handwritten signature in black ink, appearing to read 'D M Grant'.

DAREK M. GRANT
Secretary of the Senate

Presented by Senator BRAKEY of Androscoggin.
Cosponsored by Representatives: ANDREWS of Paris, CLUCHEY of Bowdoinham.

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

2 **Sec. 1. 13 MRSA §1031-A** is enacted to read:

3 **§1031-A. Definitions**

4 As used in this chapter, unless the context otherwise indicates, the following terms
5 have the following meanings.

6 **1. Biodegradable container.** "Biodegradable container" means a container, such as
7 a casket or an urn, that holds human remains or cremated remains and that is capable of
8 being decomposed and includes, but is not limited to, a tree pod.

9 **2. Tree pod.** "Tree pod" means a biodegradable container that is buried directly
10 beneath the roots of a tree.

11 **Sec. 2. 13 MRSA §1032** is amended to read:

12 **§1032. Disposal of bodies**

13 Except as otherwise provided by law, or in case of a dead body being rightfully carried
14 through or removed from the State for the purpose of burial or disposition elsewhere, every
15 dead body of a human being dying within the State and the remains of any body after
16 dissection therein ~~shall~~ **must** be decently buried, including by being buried in a
17 biodegradable container, entombed in a mausoleum, vault or tomb, or cremated within a
18 reasonable time after death. The permanent disposition of such bodies or remains ~~shall~~ **must**
19 be by interment in the earth, or deposit in a chamber, vault or tomb of a cemetery owned,
20 maintained and operated in accordance with the laws of this State, by deposit in a crypt of
21 a mausoleum, or by cremation. The remains of a human body after cremation may be
22 deposited in a niche of a columbarium or a crypt of a mausoleum, buried, including by
23 being buried in a biodegradable container, or disposed of in any manner not contrary to
24 law. ~~Not~~ A deposit of the bodies or remains of the human dead ~~shall~~ **may not** be made in a
25 single chamber, vault or tomb partly above and partly below the natural surface of the
26 ground, unless the part thereof below such surface is of a permanent character, constructed
27 of materials capable of withstanding extreme climatic conditions, waterproof and air tight,
28 and capable of being sealed permanently to prevent all escape of effluvia, and unless the
29 part thereof above the natural surface of the ground is constructed of natural stone of a
30 standard not less than that required by the United States Government for monuments
31 erected in national cemeteries, or durability sufficient to withstand all conditions of
32 weather.

33 **Sec. 3. 22 MRSA §2841-A** is enacted to read:

34 **§2841-A. Definitions**

35 As used in this chapter, unless the context otherwise indicates, the following terms
36 have the following meanings.

37 **1. Biodegradable container.** "Biodegradable container" means a container, such as
38 a casket or an urn, that holds human remains or cremated remains and that is capable of
39 being decomposed and includes, but is not limited to, a tree pod.

40 **2. Tree pod.** "Tree pod" means a biodegradable container that is buried directly
41 beneath the roots of a tree.

1 **Sec. 4. 22 MRSA §2843, first ¶**, as amended by PL 2009, c. 601, §27, is further
2 amended to read:

3 Except as authorized by the department, a dead human body may not be buried,
4 cremated or otherwise disposed of or removed from the State, including by being buried in
5 a biodegradable container, until a funeral director or other authorized person in charge of
6 the disposition of the dead human body or its removal from the State has obtained a permit
7 from the State Registrar of Vital Statistics or the clerk of the municipality where death
8 occurred or where the establishment of a funeral director having custody of the dead human
9 body is located as specified by department rule. The permit is sufficient authority for final
10 disposition in any place where dead human bodies are disposed of in this State, as long as
11 the requirements of Title 32, section 1405 are met in appropriate cases. The permit may not
12 be issued to anyone other than a funeral director until the state registrar or the clerk of the
13 municipality receives a medical certificate that has been signed by a physician or a medical
14 examiner that indicates that the physician or medical examiner has personally examined
15 the body after death. A permit must also be issued if a nurse practitioner or physician
16 assistant has signed the medical certificate indicating that the nurse practitioner or
17 physician assistant has knowledge of the deceased's recent medical condition or was in
18 charge of the deceased's care and that the nurse practitioner or physician assistant has
19 personally examined the body after death. The authorized person may transport a dead
20 human body only upon receipt of this permit.

21 **Sec. 5. 22 MRSA §2843, 2nd ¶**, as amended by PL 2009, c. 601, §27, is further
22 amended to read:

23 The State Registrar of Vital Statistics or a municipal clerk may issue a permit for final
24 disposition by cremation, burial at sea, burial in a biodegradable container, use by medical
25 science or removal from the State only upon receipt of a certificate of release by a duly
26 appointed medical examiner as specified in Title 32, section 1405.

27 **Sec. 6. 22 MRSA §2843, sub-§3-A, ¶B**, as enacted by PL 2019, c. 257, §1, is
28 amended to read:

29 B. "Burial" means all manner of dispersal or deposit in or on the ground or in a
30 structure, including burial in a biodegradable container.

31 **Sec. 7. 22 MRSA §2843-A, sub-§2**, as repealed and replaced by PL 2017, c. 475,
32 Pt. A, §31, is amended by amending the 4th blocked paragraph to read:

33 The remains or a dead body is considered abandoned if no one takes custody and control
34 of the remains or dead body for a period of 15 days. A funeral director or practitioner of
35 funeral service who has physical possession of abandoned remains or an abandoned dead
36 body may bury or cremate the remains or dead body, including burying the remains in a
37 biodegradable container. The funeral director or practitioner of funeral service may
38 embalm or refrigerate abandoned remains or an abandoned dead body without
39 authorization. A certificate of abandonment that indicates the means of disposition must
40 be filed in the municipality where the death occurred.

41 **Sec. 8. 22 MRSA §2881-A** is enacted to read:

42 **§2881-A. Definitions**

1 As used in this chapter, unless the context otherwise indicates, the following terms
2 have the following meanings.

3 **1. Biodegradable container.** "Biodegradable container" means a container, such as
4 a casket or an urn, that holds human remains or cremated remains and that is capable of
5 being decomposed and includes, but is not limited to, a tree pod.

6 **2. Tree pod.** "Tree pod" means a biodegradable container that is buried directly
7 beneath the roots of a tree.

8 **Sec. 9. 22 MRSA §2883, 3rd ¶**, as enacted by PL 2001, c. 386, §5, is amended to
9 read:

10 As used in this section, "burial" includes cremation and burial of the cremated remains
11 of the body, including burial in a biodegradable container.

12 **Sec. 10. 22 MRSA §2886**, as corrected by RR 2021, c. 2, Pt. B, §147, is amended
13 to read:

14 **§2886. Bond for proper disposal; traffic outside of State**

15 A school, college, university, recognized medical school in New England, or physician
16 or surgeon may not receive a body until a bond is given to the Treasurer of State by the
17 physician or surgeon, or by and in behalf of the school, college, university or recognized
18 medical school in New England, to be approved by a justice of a court of record in and for
19 the county in which the physician or surgeon resides, or in which the school, college,
20 university or recognized medical school in New England is situated. The bond must be in
21 the penal sum of \$1,000, conditioned that all bodies that the physician or surgeon or the
22 school, college, university or recognized medical school in New England receives
23 thereafter are used only for the promotion within the State of medical education, which
24 includes nursing training and premedical education, and, when no longer needed for such
25 educational purposes, are decently buried, including by being buried in a biodegradable
26 container. The bond must be examined annually in the month of December by the Treasurer
27 of State and the Treasurer of State shall certify in writing upon each bond in the Treasurer
28 of State's possession approval of the bond. If a bond is not approved by the Treasurer of
29 State, the Treasurer of State shall immediately notify the party giving the bond, who shall
30 forthwith file a new bond. A person that sells or buys a body or in any way traffics in the
31 same, transmits or conveys a body to any place outside of the State or causes the same to
32 be done, except as provided in section 2884, must be punished by a fine of not more than
33 \$200 or by imprisonment for not more than 11 months.

34 **Sec. 11. 22 MRSA §2954, sub-§9**, as enacted by PL 2007, c. 601, §2, is amended
35 to read:

36 **9. Superior rights.** Subject to section 2951, subsection 8 and section 2961, the rights
37 of the person to which a part passes under section 2951 are superior to rights of all others
38 with respect to the part. The person may accept or reject an anatomical gift in whole or in
39 part. Subject to the terms of the document of gift and this chapter, a person that accepts an
40 anatomical gift of an entire body may allow embalming or cremation and use of remains in
41 a funeral service, including burial in a biodegradable container. If the gift is of a part, the
42 person to which the part passes under section 2951, upon the death of the donor and before
43 embalming or cremation, shall cause the part to be removed without unnecessary

1 mutilation. As used in this subsection, "biodegradable container" has the same meaning as
2 in section 2881-A, subsection 1.

3 **Sec. 12. 32 MRSA §1400, sub-§5**, as amended by PL 2021, c. 183, §1, is further
4 amended to read:

5 **5. Practice of funeral service.** "Practice of funeral service" means the engagement
6 of a person in the care or disposition of the human remains or in the practice of disinfecting
7 and preparing by embalming or otherwise the human remains for the funeral service,
8 including preparing for burial in a biodegradable container, transportation of human
9 remains to the place of burial or cremation, or the practice of helping to meet the emotions
10 and disposition of the bereaved or the practice of funeral directing or embalming as
11 presently known, whether under these titles or designations or otherwise. "Practice of
12 funeral service" also means making arrangements for funeral services or making financial
13 arrangements for the rendering of such services. "Practice of funeral service" does not
14 mean the ownership or operation of a cemetery, crematorium, mausoleum or columbarium
15 or any other facility used for burial of human remains. "Practice of funeral service" does
16 not include the transportation of human remains by an authorized person. "Practice of
17 funeral service" does not include the manufacturing or selling of caskets or alternative
18 containers.

19 A license for the practice of funeral service as used in this chapter is the license given to a
20 person who is engaged in the practice of funeral service as above defined.

21 As used in this subsection, "biodegradable container" has the same meaning as in Title 22,
22 section 2881-A, subsection 1.

23 **Sec. 13. Rulemaking.** The Department of Health and Human Services and the
24 Department of Professional and Financial Regulation shall update their rules in order to
25 authorize the burial of biodegradable containers.

26 SUMMARY

27 This bill authorizes the burial of biodegradable containers, such as a casket or an urn,
28 containing human remains or cremated remains, including tree pods, which are containers
29 buried directly underneath the roots of a tree.