

PLEASE NOTE: Legislative Information **cannot** perform research, provide legal advice, or interpret Maine law. For legal assistance, please contact a qualified attorney.

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

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

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 ~~graveyard~~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 municipality may enforce this subsection or any local ordinance concerning burial sites or established cemeteries pursuant to Title 30-A, section 4452, including the assessment of civil penalties.

In the event of any violation of this subsection, the Attorney General may seek to enjoin a further violation, in addition to any other remedy.

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

3. Application. This section applies only to burial sites and ~~graveyard~~established cemeteries containing the bodies of humans.

Sec. 4. 30-A MRSA §4452, sub-§5, ¶R, as amended by PL 2005, c. 240, §5, is further amended to read:

R. The laws pertaining to harbors in Title 38, chapter 1, subchapter 1, local harbor ordinances adopted in accordance with Title 38, section 7 and regulations adopted by municipal officers pursuant to Title 38, section 2; and

Sec. 5. 30-A MRSA §4452, sub-§5, ¶S, as enacted by PL 2005, c. 240, §6, is amended to read:
S. Local ordinances and ordinance provisions regarding storm water, including, but not limited to, ordinances and ordinance provisions regulating nonstorm water discharges, construction site runoff and postconstruction storm water management, enacted as required by the federal Clean Water Act and federal regulations and by state permits and rules; and

Sec. 6. 30-A MRSA §4452, sub-§5, ¶T is enacted to read:

T. Laws pertaining to limitations on construction and excavation near burial sites and established cemeteries in Title 13, section 1371-A and local ordinances and regulations adopted by municipalities in accordance with this section and section 3001 regarding those limitations.

Effective September 20, 2007