



125th MAINE LEGISLATURE

FIRST REGULAR SESSION-2011

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

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.