
SENATE BILL 5868

State of Washington 61st Legislature 2009 Regular Session

By Senators Pridemore, Fairley, and Shin; by request of Governor Gregoire

Read first time 02/05/09. Referred to Committee on Government Operations & Elections.

1 AN ACT Relating to consolidating and modifying the duties of the
2 cemetery board and the board of funeral directors and embalmers;
3 amending RCW 18.39.010, 18.39.173, 18.39.175, 18.39.217, 18.39.800,
4 18.235.020, 68.04.190, 68.05.020, 68.05.095, 68.05.100, 68.05.105,
5 68.05.175, 68.05.205, 68.05.285, 68.24.090, 68.40.040, 68.44.115,
6 68.44.150, 68.46.010, 68.46.090, 68.46.130, 68.50.230, 68.60.030,
7 68.60.050, and 68.60.060; and repealing RCW 68.05.040, 68.05.050,
8 68.05.060, and 68.05.080.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

10 **Sec. 1.** RCW 18.39.010 and 2005 c 365 s 1 are each amended to read
11 as follows:

12 The definitions in this section apply throughout this chapter
13 unless the context clearly requires otherwise.

14 (1) "Funeral director" means a person engaged in the profession or
15 business of providing for the care, shelter, transportation, and
16 arrangements for the disposition of human remains that may include
17 arranging and directing funeral, memorial, or other services.

18 (2) "Embalmer" means a person engaged in the profession or business

1 of disinfecting and preserving human remains for transportation or
2 final disposition.

3 (3) "Two-year college course" means the completion of sixty
4 semester hours or ninety quarter hours of college credit, including the
5 satisfactory completion of certain college courses, as set forth in
6 this chapter.

7 (4) "Funeral establishment" means a place of business licensed in
8 accordance with RCW 18.39.145, that provides for any aspect of the
9 care, shelter, transportation, embalming, preparation, and arrangements
10 for the disposition of human remains and includes all areas of such
11 entity and all equipment, instruments, and supplies used in the care,
12 shelter, transportation, preparation, and embalming of human remains.

13 (5) "Director" means the director of licensing.

14 (6) "Board" means the ((state)) funeral and cemetery board ((of
15 ~~funeral directors and embalmers~~)) created pursuant to RCW 18.39.173.

16 (7) "Prearrangement funeral service contract" means any contract
17 under which, for a specified consideration, a funeral establishment
18 promises, upon the death of the person named or implied in the
19 contract, to furnish funeral merchandise or services.

20 (8) "Funeral merchandise or services" means those services normally
21 performed and merchandise normally provided by funeral establishments,
22 including the sale of burial supplies and equipment, but excluding the
23 sale by a cemetery of lands or interests therein, services incidental
24 thereto, markers, memorials, monuments, equipment, crypts, niches, or
25 vaults.

26 (9) "Public depository" means a public depository defined by RCW
27 39.58.010 or a state or federally chartered credit union.

28 (10) "Licensee" means any person or entity holding a license,
29 registration, endorsement, or permit under this chapter issued by the
30 director.

31 Words used in this chapter importing the singular may be applied to
32 the plural of the person or thing, words importing the plural may be
33 applied to the singular, and words importing the masculine gender may
34 be applied to the female.

35 **Sec. 2.** RCW 18.39.173 and 2005 c 365 s 13 are each amended to read
36 as follows:

37 ((There is hereby established a state board of funeral directors

1 ~~and embalmers to be composed of five members, four professional and one~~
2 ~~public member, appointed by the governor in accordance with this~~
3 ~~section. Each professional member of the board shall be licensed in~~
4 ~~this state as a funeral director and embalmer and a resident of the~~
5 ~~state of Washington for a period of at least five years next preceding~~
6 ~~appointment, during which time such member shall have been continuously~~
7 ~~engaged in the profession))~~ (1) A funeral and cemetery board is
8 created. The initial appointments to the board include all members
9 from the existing funeral directors and embalmers board and existing
10 cemetery board with their year of expiration of term remaining the
11 same. Subsequent to the initial appointments the board will consist of
12 seven members to be appointed by the governor in accordance with this
13 section.

14 (2) Three members of the board must be persons who have had
15 experience in the active administrative management of a cemetery
16 authority or as a member of the board of directors of a cemetery
17 authority for a period of five years preceding appointment. Three
18 members of the board must each be licensed in this state as funeral
19 directors and embalmers and must have been continuously engaged in the
20 practice as funeral directors and embalmers for a period of five years
21 preceding appointment. One member must represent the general public
22 and may not have a connection with the funeral or cemetery industry.
23 Board members must be a resident of the state of Washington.

24 (3) All members of the board ((of funeral directors and embalmers))
25 shall be appointed to serve for a term of ((five)) four years, to
26 expire on July 1st of the year of termination of their term, and until
27 their successors have been appointed. In case of a vacancy occurring
28 on the board, the governor shall appoint a qualified member for the
29 remainder of the unexpired term of the vacant office. Any member of
30 the board ((of funeral directors and embalmers)) who fails to properly
31 discharge the duties of a member may be removed by the governor.

32 (4) The board shall meet once annually to conduct its business and
33 to elect a chair, vice-chair, and ((secretary and take official board
34 action on pending matters by majority vote of all the members of the
35 board of funeral directors and embalmers)) other officers as the board
36 determines, and at other times when called by the director, the chair,
37 or a majority of the members. A majority of the members of the board
38 shall at all times constitute a quorum. A quorum of the board to

1 consider any charges brought under this chapter must include two of the
2 funeral director and embalmer members of the board. A quorum of the
3 board to consider any charges brought under Title 68 RCW must include
4 two of the members who have had experience in the active administrative
5 management of a cemetery authority. If board members cannot serve due
6 to a conflict of interest, a quorum constituting a majority of the
7 members must preside over the hearing.

8 (5) Each member of the board must be compensated in accordance with
9 RCW 43.03.240 and must receive travel expenses in accordance with RCW
10 43.03.050 and 43.03.060.

11 **Sec. 3.** RCW 18.39.175 and 2005 c 365 s 14 are each amended to read
12 as follows:

13 ~~((Each member of the board of funeral directors and embalmers shall~~
14 ~~be compensated in accordance with RCW 43.03.240 and shall be reimbursed~~
15 ~~for travel expenses in connection with board duties in accordance with~~
16 ~~RCW 43.03.050 and 43.03.060.))~~

17 The board shall have the following duties and responsibilities
18 under this chapter:

19 (1) To be responsible for the preparation, conducting, and grading
20 of examinations of applicants for funeral director and embalmer
21 licenses;

22 (2) To certify to the director the results of examinations of
23 applicants and certify the applicant as having "passed" or "failed";

24 (3) To make findings and recommendations to the director on any and
25 all matters relating to the enforcement of this chapter;

26 (4) To adopt and enforce reasonable rules(~~(. Rules regulating the~~
27 ~~cremation of human remains shall be adopted in consultation with the~~
28 ~~cemetery board))~~);

29 (5) To examine or audit or to direct the examination and audit of
30 prearrangement funeral service trust fund records for compliance with
31 this chapter and rules adopted by the board; and

32 (6) To adopt rules establishing mandatory continuing education
33 requirements to be met by persons applying for license renewal.

34 **Sec. 4.** RCW 18.39.217 and 2005 c 365 s 18 are each amended to read
35 as follows:

1 (1) A license or endorsement issued by the board or under chapter
2 68.05 RCW is required in order to operate a crematory or conduct a
3 cremation.

4 (2) Conducting a cremation without a license or endorsement is a
5 misdemeanor. Each such cremation is a separate violation.

6 ~~((3) Crematories owned or operated by or located on property
7 licensed as a funeral establishment shall be regulated by the board.
8 Crematories not affiliated with a funeral establishment shall be
9 regulated by the cemetery board.))~~

10 **Sec. 5.** RCW 18.39.800 and 2005 c 365 s 25 are each amended to read
11 as follows:

12 The funeral ~~((directors and embalmers))~~ and cemetery account is
13 created in the custody of the state ~~((treasury))~~ treasurer. ~~((All fees
14 received by the department for licenses, registrations, renewals,
15 examinations, and audits shall be forwarded to the state treasurer who
16 shall credit the money to the account. All fines and civil penalties
17 ordered by the superior court or fines ordered pursuant to RCW
18 18.130.160(8) against holders of licenses or registrations issued under
19 the provisions of this chapter shall be paid to the account. All
20 expenses incurred in carrying out the licensing and registration
21 activities of the department and the state funeral directors and
22 embalmers board under this chapter shall be paid from the account as
23 authorized by legislative appropriation. Any residue in the account
24 shall be accumulated and shall not revert to the general fund at the
25 end of the biennium. All earnings of investments of balances in the
26 account shall be credited to the general fund.))~~ All receipts from
27 fines and fees collected under this chapter must be deposited into the
28 account. Expenditures from the account may be used only to carry out
29 the duties required for the operation and enforcement of this chapter
30 and chapter 68.05 RCW. Only the director of licensing or the
31 director's designee may authorize expenditures from the account. The
32 account is subject to allotment procedures under chapter 43.88 RCW, but
33 an appropriation is not required for expenditures.

34 **Sec. 6.** RCW 18.235.020 and 2008 c 119 s 21 are each amended to
35 read as follows:

36 (1) This chapter applies only to the director and the boards and

1 commissions having jurisdiction in relation to the businesses and
2 professions licensed under the chapters specified in this section.
3 This chapter does not apply to any business or profession not licensed
4 under the chapters specified in this section.

5 (2)(a) The director has authority under this chapter in relation to
6 the following businesses and professions:

7 (i) Auctioneers under chapter 18.11 RCW;

8 (ii) Bail bond agents and bail bond recovery agents under chapter
9 18.185 RCW;

10 (iii) Camping resorts' operators and salespersons under chapter
11 19.105 RCW;

12 (iv) Commercial telephone solicitors under chapter 19.158 RCW;

13 (v) Cosmetologists, barbers, manicurists, and estheticians under
14 chapter 18.16 RCW;

15 (vi) Court reporters under chapter 18.145 RCW;

16 (vii) Driver training schools and instructors under chapter 46.82
17 RCW;

18 (viii) Employment agencies under chapter 19.31 RCW;

19 (ix) For hire vehicle operators under chapter 46.72 RCW;

20 (x) Limousines under chapter 46.72A RCW;

21 (xi) Notaries public under chapter 42.44 RCW;

22 (xii) Private investigators under chapter 18.165 RCW;

23 (xiii) Professional boxing, martial arts, and wrestling under
24 chapter 67.08 RCW;

25 (xiv) Real estate appraisers under chapter 18.140 RCW;

26 (xv) Real estate brokers and salespersons under chapters 18.85 and
27 18.86 RCW;

28 (xvi) Security guards under chapter 18.170 RCW;

29 (xvii) Sellers of travel under chapter 19.138 RCW;

30 (xviii) Timeshares and timeshare salespersons under chapter 64.36
31 RCW;

32 (xix) Whitewater river outfitters under chapter 79A.60 RCW; and

33 (xx) Home inspectors under chapter 18.280 RCW.

34 (b) The boards and commissions having authority under this chapter
35 are as follows:

36 (i) The state board of registration for architects established in
37 chapter 18.08 RCW;

38 (ii) (~~The cemetery board established in chapter 68.05 RCW;~~

1 ~~(iii)~~) The Washington state collection agency board established in
2 chapter 19.16 RCW;
3 ~~((iv))~~ (iii) The state board of registration for professional
4 engineers and land surveyors established in chapter 18.43 RCW governing
5 licenses issued under chapters 18.43 and 18.210 RCW;
6 ~~((v))~~ (iv) The ~~((state board of))~~ funeral ~~((directors and~~
7 ~~embalmers))~~ and cemetery board established in chapter 18.39 RCW;
8 ~~((vi))~~ (v) The state board of registration for landscape
9 architects established in chapter 18.96 RCW; and
10 ~~((vii))~~ (vi) The state geologist licensing board established in
11 chapter 18.220 RCW.

12 (3) In addition to the authority to discipline license holders, the
13 disciplinary authority may grant or deny licenses based on the
14 conditions and criteria established in this chapter and the chapters
15 specified in subsection (2) of this section. This chapter also governs
16 any investigation, hearing, or proceeding relating to denial of
17 licensure or issuance of a license conditioned on the applicant's
18 compliance with an order entered under RCW 18.235.110 by the
19 disciplinary authority.

20 **Sec. 7.** RCW 68.04.190 and 2005 c 365 s 39 are each amended to read
21 as follows:

22 "Cemetery authority" means an entity that has obtained a
23 certificate of authority to operate a cemetery from the funeral and
24 cemetery board, or any other entity that operates a cemetery that is
25 not under the jurisdiction of the funeral and cemetery board.

26 **Sec. 8.** RCW 68.05.020 and 1953 c 290 s 27 are each amended to read
27 as follows:

28 The term "board" used in this chapter means the funeral and
29 cemetery board.

30 **Sec. 9.** RCW 68.05.095 and 1987 c 331 s 8 are each amended to read
31 as follows:

32 ~~((The board shall elect annually a chairman and vice chairman and~~
33 ~~such other officers as it shall determine from among its members.))~~
34 The director, in consultation with the board, may employ and prescribe
35 the duties of the ~~((executive secretary))~~ program administrator or

1 manager. The ~~((executive secretary shall))~~ program administrator or
2 manager must have a minimum of five years' experience in either
3 cemetery or funeral management, or both, unless this requirement is
4 waived by the board.

5 **Sec. 10.** RCW 68.05.100 and 2005 c 365 s 52 are each amended to
6 read as follows:

7 The board may establish necessary rules for the enforcement of this
8 title and the laws subject to its jurisdiction. The board shall
9 prescribe the application forms and reports provided for in this title.
10 ~~((Rules regulating the cremation of human remains and establishing~~
11 ~~requirements shall be adopted in consultation with the state board of~~
12 ~~funeral directors and embalmers.))~~

13 **Sec. 11.** RCW 68.05.105 and 2005 c 365 s 53 are each amended to
14 read as follows:

15 In addition to the authority in RCW 18.235.030, the board has the
16 following authority under this chapter:

- 17 (1) To adopt, amend, and rescind rules necessary to carry out this
18 title; and
19 (2) To adopt standards of professional conduct or practice.

20 **Sec. 12.** RCW 68.05.175 and 1987 c 331 s 13 are each amended to
21 read as follows:

22 A permit or endorsement issued by the ~~((cemetery))~~ board or under
23 chapter 18.39 RCW is required in order to operate a crematory or
24 conduct a cremation. ~~((Crematories owned or operated by or located on~~
25 ~~property licensed as a funeral establishment shall be regulated by the~~
26 ~~board of funeral directors and embalmers. Crematories not affiliated~~
27 ~~with a funeral establishment shall be regulated by the cemetery~~
28 ~~board.))~~

29 **Sec. 13.** RCW 68.05.205 and 1993 c 43 s 4 are each amended to read
30 as follows:

31 The director with the consent of the ~~((cemetery))~~ board shall set
32 all fees for chapters 68.05, 68.20, 68.24, 68.28, 68.32, 68.36, 68.40,
33 68.44, and 68.46 RCW in accordance with RCW 43.24.086, including fees

1 for licenses, certificates, regulatory charges, permits, or
2 endorsements, and the department shall collect the fees.

3 **Sec. 14.** RCW 68.05.285 and 2005 c 365 s 67 are each amended to
4 read as follows:

5 The funeral and cemetery account is created in the custody of the
6 state treasurer under RCW 18.39.800. All moneys received under this
7 chapter must be deposited in the account. (~~Expenditures from the~~
8 ~~account may be used only for the purposes of this chapter. Only the~~
9 ~~cemetery board may authorize expenditures from the account. The~~
10 ~~account is subject to allotment procedures under chapter 43.88 RCW, but~~
11 ~~an appropriation is not required for expenditures.~~)

12 **Sec. 15.** RCW 68.24.090 and 2005 c 365 s 75 are each amended to
13 read as follows:

14 Property dedicated to cemetery purposes shall be held and used
15 exclusively for cemetery purposes, unless and until the dedication is
16 removed from all or any part of it by an order and decree of the
17 superior court of the county in which the property is situated, in a
18 proceeding brought by the cemetery authority for that purpose and upon
19 notice of hearing and proof satisfactory to the court:

20 (1) That no placements of human remains were made in or that all
21 placements of human remains have been removed from that portion of the
22 property from which dedication is sought to be removed.

23 (2) That the portion of the property from which dedication is
24 sought to be removed is not being used for placement of human remains.

25 (3) That notice of the proposed removal of dedication has been
26 given in writing to both the funeral and cemetery board and the
27 (~~office~~) department of archaeology and historic preservation. This
28 notice must be given at least sixty days before filing the proceedings
29 in superior court. The notice of the proposed removal of dedication
30 shall be recorded with the auditor or recording officer of the county
31 where the cemetery is located at least sixty days before filing the
32 proceedings in superior court.

33 **Sec. 16.** RCW 68.40.040 and 1987 c 331 s 37 are each amended to
34 read as follows:

35 A cemetery authority not exempt under this chapter shall file in

1 its principal office for review by plot owners the previous seven
2 fiscal years' endowment care reports as filed with the funeral and
3 cemetery board in accordance with RCW 68.44.150.

4 **Sec. 17.** RCW 68.44.115 and 1987 c 331 s 44 are each amended to
5 read as follows:

6 To be considered qualified as a trustee, each trustee of an
7 endowment care fund appointed in accordance with this chapter shall
8 file with the board a statement of acceptance of fiduciary
9 responsibility, on a form approved by the board, before assuming the
10 duties of trustee. The trustee shall remain in the trustee's fiduciary
11 capacity until such time as the trustee advises the funeral and
12 cemetery board in writing of the trustee's resignation of trusteeship.

13 **Sec. 18.** RCW 68.44.150 and 2005 c 365 s 123 are each amended to
14 read as follows:

15 The cemetery authority or the trustees in whose names the funds are
16 held shall, annually, and within ninety days after the end of the
17 calendar or fiscal year of the cemetery authority, file in its office
18 and with the funeral and cemetery board endowment care trust fund, a
19 report showing the actual financial condition of the funds. The report
20 must be signed by an officer of the cemetery authority or one or more
21 of the trustees. The report must be maintained for a period of seven
22 years.

23 **Sec. 19.** RCW 68.46.010 and 2005 c 365 s 125 are each amended to
24 read as follows:

25 The definitions in this section apply throughout this chapter
26 unless the context clearly requires otherwise.

27 (1) "Prearrangement contract" means a contract for purchase of
28 cemetery merchandise or services, unconstructed crypts or niches, or
29 undeveloped graves to be furnished at a future date for a specific
30 consideration which is paid in advance by one or more payments in one
31 sum or by installment payments.

32 (2) "Cemetery merchandise or services" and "merchandise or
33 services" mean those services normally performed by cemetery
34 authorities, including the sale of monuments, markers, memorials,

1 nameplates, liners, vaults, boxes, urns, vases, interment services, or
2 any one or more of them.

3 (3) "Prearrangement trust fund" means all funds required to be
4 maintained in one or more funds for the benefit of beneficiaries by
5 either this chapter or by the terms of a prearrangement contract, as
6 herein defined.

7 (4) "Board" means the funeral and cemetery board established under
8 (~~chapter 68.05~~) RCW 18.39.173 or its authorized representative.

9 (5) "Undeveloped grave" means any grave in an area which a cemetery
10 authority has not landscaped, groomed, or developed to the extent
11 customary in the cemetery industry.

12 **Sec. 20.** RCW 68.46.090 and 2005 c 365 s 135 are each amended to
13 read as follows:

14 Any cemetery authority selling prearrangement merchandise or other
15 prearrangement services shall file in its office and with the
16 (~~cemetery~~) board a written report upon forms prepared by the
17 (~~cemetery~~) board which shall state the amount of the principle of the
18 prearrangement trust fund, the depository of such fund, and cash on
19 hand which is or may be due to the fund as well as other information
20 the board may deem appropriate. All information appearing on such
21 written reports shall be revised at least annually. These reports
22 shall be verified by the president, or the vice president, and one
23 other officer of the cemetery authority, the accountant or auditor who
24 prepared the report, and, if required by the board for good cause, a
25 certified public accountant in accordance with generally accepted
26 auditing standards.

27 **Sec. 21.** RCW 68.46.130 and 1979 c 21 s 43 are each amended to read
28 as follows:

29 The (~~cemetery~~) board may grant an exemption from any or all of
30 the requirements of this chapter relating to prearrangement contracts
31 to any cemetery authority which:

32 (1) Sells less than twenty prearrangement contracts per year; and

33 (2) Deposits one hundred percent of all funds received into a trust
34 fund under RCW 68.46.030, as now or hereafter amended.

1 **Sec. 22.** RCW 68.50.230 and 2005 c 365 s 146 are each amended to
2 read as follows:

3 Whenever any human remains shall have been in the lawful possession
4 of any person, firm, corporation, or association for a period of ninety
5 days or more, and the relatives of, or persons interested in, the
6 deceased person shall fail, neglect, or refuse to direct the
7 disposition, the human remains may be disposed of by the person, firm,
8 corporation, or association having such lawful possession thereof,
9 under and in accordance with rules adopted by the funeral and cemetery
10 board (~~(and the board of funeral directors and embalmers)~~), not
11 inconsistent with any statute of the state of Washington or rule
12 adopted by the state board of health.

13 **Sec. 23.** RCW 68.60.030 and 2005 c 365 s 150 are each amended to
14 read as follows:

15 (1)(a) The (~~(archaeological and historical division of the~~
16 ~~department of community, trade, and economic development)~~) department
17 of archaeology and historic preservation may grant by nontransferable
18 certificate authority to maintain and protect an abandoned cemetery
19 upon application made by a preservation organization which has been
20 incorporated for the purpose of restoring, maintaining, and protecting
21 an abandoned cemetery. Such authority shall be limited to the care,
22 maintenance, restoration, protection, and historical preservation of
23 the abandoned cemetery, and shall not include authority to make
24 burials. In order to activate a historical cemetery for burials, an
25 applicant must apply for a certificate of authority to operate a
26 cemetery from the (~~(state)~~) funeral and cemetery board.

27 (b) Those preservation and maintenance corporations that are
28 granted authority to maintain and protect an abandoned cemetery shall
29 be entitled to hold and possess burial records, maps, and other
30 historical documents as may exist. Maintenance and preservation
31 corporations that are granted authority to maintain and protect an
32 abandoned cemetery shall not be liable to those claiming burial rights,
33 ancestral ownership, or to any other person or organization alleging to
34 have control by any form of conveyance not previously recorded at the
35 county auditor's office within the county in which the abandoned
36 cemetery exists. Such organizations shall not be liable for any

1 reasonable alterations made during restoration work on memorials,
2 roadways, walkways, features, plantings, or any other detail of the
3 abandoned cemetery.

4 (c) Should the maintenance and preservation corporation be
5 dissolved, the (~~archaeological and historical division of the~~
6 ~~department of community, trade, and economic development~~) department
7 of archaeology and historic preservation shall revoke the certificate
8 of authority.

9 (d) Maintenance and preservation corporations that are granted
10 authority to maintain and protect an abandoned cemetery may establish
11 care funds.

12 (2) Except as provided in subsection (1) of this section, the
13 department of (~~community, trade, and economic development~~)
14 archaeology and historic preservation may, in its sole discretion,
15 authorize any Washington nonprofit corporation that is not expressly
16 incorporated for the purpose of restoring, maintaining, and protecting
17 an abandoned cemetery, to restore, maintain, and protect one or more
18 abandoned cemeteries. The authorization may include the right of
19 access to any burial records, maps, and other historical documents, but
20 shall not include the right to be the permanent custodian of original
21 records, maps, or documents. This authorization shall be granted by a
22 nontransferable certificate of authority. Any nonprofit corporation
23 authorized and acting under this subsection is immune from liability to
24 the same extent as if it were a preservation organization holding a
25 certificate of authority under subsection (1) of this section.

26 (3) The department of (~~community, trade, and economic~~
27 ~~development~~) archaeology and historic preservation shall establish
28 standards and guidelines for granting certificates of authority under
29 subsections (1) and (2) of this section to assure that any restoration,
30 maintenance, and protection activities authorized under this subsection
31 are conducted and supervised in an appropriate manner.

32 **Sec. 24.** RCW 68.60.050 and 1999 c 67 s 1 are each amended to read
33 as follows:

34 (1) Any person who knowingly removes, mutilates, defaces, injures,
35 or destroys any historic grave shall be guilty of a class C felony
36 punishable under chapter 9A.20 RCW. Persons disturbing historic graves
37 through inadvertence, including disturbance through construction, shall

1 reinter the human remains under the supervision of the ((office))
2 department of archaeology and historic preservation. Expenses to
3 reinter such human remains are to be provided by the ((office))
4 department of archaeology and historic preservation to the extent that
5 funds for this purpose are appropriated by the legislature.

6 (2) This section does not apply to actions taken in the performance
7 of official law enforcement duties.

8 (3) It shall be a complete defense in a prosecution under
9 subsection (1) of this section if the defendant can prove by a
10 preponderance of evidence that the alleged acts were accidental or
11 inadvertent and that reasonable efforts were made to preserve the
12 remains accidentally disturbed or discovered, and that the accidental
13 discovery or disturbance was properly reported.

14 **Sec. 25.** RCW 68.60.060 and 1990 c 92 s 5 are each amended to read
15 as follows:

16 Any person who violates any provision of this chapter is liable in
17 a civil action by and in the name of the ((state cemetery board))
18 department of archaeology and historic preservation to pay all damages
19 occasioned by their unlawful acts. The sum recovered shall be applied
20 in payment for the repair and restoration of the property injured or
21 destroyed and to the care fund if one is established.

22 NEW SECTION. **Sec. 26.** The following acts or parts of acts are
23 each repealed:

24 (1) RCW 68.05.040 (Cemetery board created--Appointments--Terms) and
25 2005 c 365 s 48, 1987 c 331 s 5, 1977 ex.s. c 351 s 1, & 1953 c 290 s
26 31;

27 (2) RCW 68.05.050 (Qualifications of members) and 2005 c 365 s 49,
28 1979 c 21 s 5, 1977 ex.s. c 351 s 2, & 1953 c 290 s 32;

29 (3) RCW 68.05.060 (Compensation and travel expenses) and 1984 c 287
30 s 102, 1975-'76 2nd ex.s. c 34 s 156, & 1953 c 290 s 33; and

31 (4) RCW 68.05.080 (Meetings) and 2005 c 365 s 50, 1987 c 331 s 6,
32 & 1953 c 290 s 35.

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