

HOUSE BILL REPORT

ESSB 5759

*As Reported By House Committee on:
Commerce & Labor*

Title: An act relating to regulation of funeral directors, embalmers, and crematories.

Brief Description: Revising provisions regulating funeral directors, embalmers, and crematories.

Sponsor(s): By Senate Committee on Commerce & Labor (originally sponsored by Senator Rasmussen).

Brief History:

Reported by House Committee on:
Commerce & Labor, February 25, 1992, DPA.

**HOUSE COMMITTEE ON
COMMERCE & LABOR**

Majority Report: *Do pass as amended.* Signed by 11 members: Representatives Heavey, Chair; G. Cole, Vice Chair; Fuhrman, Ranking Minority Member; Lisk, Assistant Ranking Minority Member; Franklin; Jones; R. King; O'Brien; Prentice; Vance; and Wilson.

Staff: Jim Kelley (786-7166).

Background: Prior to 1989, all health care professionals were licensed by the Department of Licensing. Fees collected for the activities related to the licensing and registration of these professionals were deposited into the health professionals account. Funeral directors and embalmers were classified as health care professionals at that time. When the Department of Health was established, it acquired the responsibility for licensing health care professionals. The licensing of funeral directors and embalmers remained the responsibility of the Department of Licensing. Fees collected for the licensing and registration of funeral directors and embalmers continue to be deposited in the health professionals account. The Department of Licensing does receive credit when the fees are deposited into the account.

Current law limits the dollar amount of fees the director may charge cemetery authorities. Compliance with this law has put the Cemetery Board Program in direct conflict with

the statutory requirement that licensing programs be self-sustaining.

Under certain circumstances, the state of Washington provides funds for the disposition of human remains. The state may elect to have the remains cremated. Crematories owned by cemetery authorities that perform these cremations are currently protected from criminal or civil liability for performing the cremations. Crematories owned by funeral homes do not have the same legal protection.

Unless directions have been left by the decedent, the right to control the disposition of the decedent's remains rests with the surviving spouse, children, or parents of the decedent. When a decedent has not left directions and there are no known next of kin, a crematory that performs the cremation based on the permission of a representative of the decedent may be held liable for cremating the remains.

Summary of Amended Bill: The funeral directors and embalmers account is created in the custody of the Office of the State Treasurer. All fees, fines, and civil penalties collected by the Department of Licensing for activities related to the licensing and registration of funeral directors and embalmers are deposited into this account. All expenses related to the licensing and registration of funeral directors and embalmers are paid from this account.

The director, with the consent of the Cemetery Board, is authorized to set cemetery fees in accordance with the statute requiring that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation or business.

In the event of a state-funded and state-ordered cremation, all crematories are protected from being held criminally or civilly liable for performing such cremations.

When a crematory lawfully cremates the decedent's remains after receiving permission from a representative of the decedent or the decedent's estate, the crematory cannot be held criminally or civilly liable for cremating the remains.

Amended Bill Compared to Engrossed Substitute Bill: The statutory limit on cemetery fees is removed. The director, with the consent of the Cemetery Board, is authorized to set fees to cover the cost of the program.

Fiscal Note: Available.

Effective Date of Amended Bill: Ninety days after adjournment of session in which bill is passed.

Testimony For: This bill merely makes necessary technical adjustments regarding cemetery fees and makes cremations possible when requested, without fear of liability. The department would support an amendment to make the program self-supporting.

Testimony Against: None.

Witnesses: Jon Donnellan, Department of Licensing (in favor).