

SENATE BILL REPORT

SSB 5752

As Passed Senate, March 10, 2005

Title: An act relating to funeral directors and cemeteries.

Brief Description: Concerning funeral services.

Sponsors: Senate Committee on Labor, Commerce, Research & Development (originally sponsored by Senators Prentice, Honeyford and Kohl-Welles).

Brief History:

Committee Activity: Labor, Commerce, Research & Development: 2/22/05, 2/25/05 [DPS].
Passed Senate: 3/10/05, 47-0.

SENATE COMMITTEE ON LABOR, COMMERCE, RESEARCH & DEVELOPMENT

Majority Report: That Substitute Senate Bill No. 5752 be substituted therefor, and the substitute bill do pass.

Signed by Senators Kohl-Welles, Chair; Franklin, Vice Chair; Parlette, Ranking Minority Member; Honeyford, Keiser and Prentice.

Staff: Alison Mendiola (786-7483)

Background: Funeral and cemetery laws have been enacted, but not thoroughly revised for many decades. For example, the licensing of funeral directors and embalmers was enacted in 1937, funeral establishments in 1977, and crematories in 1985. The cemetery law was enacted in 1943, the Cemetery Board was created in 1953, and crematories licensed in 1985.

Though the profession has changed dramatically, from terminology to cemetery practices, the statutes have not been updated accordingly.

Both the funeral and cemetery prearrangement trust fund laws require the firms to hold investment instruments in a public depository.

Applications to take the examination to become a licensed funeral director or embalmer are filed with the director of the Department of Licensing (DOL) at least forty-five days before the exam.

The right to control the disposition of human remains refers to a situation where the decedent has not made prearrangements regarding the disposition of his or her remains and who has the authority to control the disposition. Right to control statutes can be found under both the funeral and cemetery statutes.

The disposition of human remains in any place, other than a cemetery, is guilty of a misdemeanor.

Certificates of removal registration permit Washington funeral directors or embalmers to remove human remains from the district where the death occurred to another registration district.

Summary of Bill: Technical, clarifying, and substantive changes are made to the funeral, cemetery, and vital records statutes. Outdated acts are repealed.

RCW 18.39, Funeral Statutes. An academic internship is created. An academic intern is an enrolled student in an accredited college funeral service education program who is serving his or her three-month internship at a Washington State funeral establishment, as is required for graduation.

Funeral directing or embalming apprenticeships are terminated.

A Certificate of Removal Registration is created and permits funeral establishments licensed in Oregon or Idaho to remove human remains from Washington prior to submitting a completed certificate of death and permits Washington firms to remove remains from Oregon.

Applications to take the examination to become a licensed funeral director or embalmer are filed with the director of the DOL at least fifteen days before the exam.

Title 68, Cemetery Laws. A definition for "scattering garden" is created and means a designated area in a cemetery for the scattering of cremated human remains.

The cemetery board consists of five members, and no longer are two of the members required to have legal or accounting experience.

The requirement that firms hold investments in a public depository is removed.

The ownership or right to unoccupied cemetery space is considered abandoned if it is neglected and in a state of disrepair for a period of five years. After this five-year period of alleged abandonment, the cemetery management may reclaim the unoccupied space after proper notice over a three-year period by filing a petition for an order of abandonment with the superior court. Notice cannot be placed on the unoccupied space until twenty years have elapsed since the last interment in that lot.

The right to control the disposition of human remains is consolidated under the cemetery laws.

A cemetery account is created in the custody of the State Treasurer. All monies received under this chapter must be deposited into the account. Only the cemetery board may authorize expenditures, and an appropriation is not required for expenditures.

RCW 70.58, Vital Records. Certificates of removal registration permits funeral establishments licensed in Oregon or Idaho, with a current certificate of removal registration issued by the director of the DOL, to remove human remains from the district where the death occurred to Oregon or Idaho.

Only funeral directors may file death certificates.

Appropriation: None.

Fiscal Note: Requested on February 21, 2005.

Committee/Commission/Task Force Created: No.

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

Testimony For: The industry has changed in last several decades and the funeral and cemetery statutes need to be updated to reflect current practices. The term "human remains" is updated to include cremated human remains as there have been thefts of human remains from cemeteries and these people cannot be prosecuted because cremated human remains are not currently considered human remains.

Other: Credit unions need to added back into the funeral and cemetery statutes.

Testimony Against: None.

Who Testified: PRO: James Noel, Washington State Funeral Director's Association; Jon Donnellan, Department of Licensing. OTHER: Terry Kohl, Washington Credit Union League.

House Amendment(s): The House amendment restores the current requirements and list of acceptable persons for filing of death certificates. Further, it eliminates the archaeological and historical division of the Department of Community, Trade, and Economic Development as the entity whose name a civil action for violations of this chapter are brought under.

The amendment also:

- authorizes the Board of Funeral Directors and Embalmers (Board) to recognize funeral director or embalmer licenses issued by other states which have substantially equivalent licenser requirements;
- restores the Board's discretion in issuing a funeral director or embalmer's license to new licensees;
- allows persons making funeral arrangements to request or arrange for shipment, transportation, or disposition of a deceased person by voice, data, text, electronic, or other similar transmission;
- restores the current requirement that itemized billing statements to consumers for merchandise and services from funeral service arrangements mirror amounts paid by or billed to the funeral director; and
- increases the number of days that someone in lawful possession of human remains may dispose of such remains where there has been no direction for the disposition of the remains by relatives or interested persons.

Passed House: 94-0.