
HOUSE BILL 2919

State of Washington

65th Legislature

2018 Regular Session

By Representative Orcutt

Read first time 01/24/18. Referred to Committee on Business & Financial Services.

1 AN ACT Relating to family cemeteries; amending RCW 68.05.090,
2 68.05.400, 68.20.080, 68.20.140, 68.40.095, and 68.44.180; adding a
3 new section to chapter 68.05 RCW; and adding a new chapter to Title
4 68 RCW.

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

6 NEW SECTION. **Sec. 1.** (1) There is a family cemetery permit,
7 issued by the board. Subject to the requirements of this chapter, a
8 family cemetery permit authorizes the burial and permanent
9 disposition, on private property, of the human remains of no more
10 than a total of ten individuals, who are all related as required in
11 section 3 of this act.

12 (2) An individual may submit an application for a family cemetery
13 permit to the board on a form prescribed by the board. An application
14 for a permit must include the following information:

15 (a) The applicant's name, address, and phone number;

16 (b) The address and legal description of the property on which
17 the proposed family cemetery will be located;

18 (c) A legible and accurate map or plat of the property, as
19 required by the board, with reference points to any portion of the
20 property to be dedicated for cemetery purposes; and

1 (d) Documentation, in a manner required by the board, that the
2 applicant is a record owner of the property and all record owners of
3 the property agree to dedicate a portion or all of the property for
4 cemetery purposes.

5 (3) There is no application fee, permit issuance fee, or permit
6 transfer fee for a family cemetery permit.

7 (4) The board may require proof of compliance with section 2 of
8 this act before issuing a family cemetery permit to an applicant.

9 (5)(a) Once issued, a permit does not expire or require renewal.
10 However, the board may verify a permit holder's compliance with this
11 chapter at any time after the permit is issued and may suspend or
12 cancel a permit for a violation of this title.

13 (b) A permit may be transferred, upon application to the board,
14 to an individual related to the permit holder to the degree required
15 by section 3 of this act who is a record owner of the property on
16 which the family cemetery is located, in the following circumstances:

17 (i) Upon the request of both the permit holder and the individual
18 related to the permit holder to the degree required by section 3 of
19 this act who is a record owner of the property; or

20 (ii) After the death of the permit holder and upon application by
21 the individual related to the permit holder to the degree required by
22 section 3 of this act who is a record owner of the property.

23 (c) Upon the death of the permit holder, the board may suspend a
24 family cemetery permit until such time as the permit is transferred
25 pursuant to (b) of this subsection (5). If the board does not receive
26 an application to transfer a permit to a new individual within one
27 year of the date of the permit holder's death, the board may cancel
28 the permit.

29 (6) The following orders or decisions of the board are subject to
30 review pursuant to the administrative procedure act, chapter 34.05
31 RCW:

32 (a) An order to enforce a requirement of this chapter;

33 (b) Denial of an application for permit issuance;

34 (c) Denial of an application to transfer a permit;

35 (d) Suspension of a permit; or

36 (e) Cancellation of a permit.

37 NEW SECTION. **Sec. 2.** (1) Prior to issuance of a family cemetery
38 permit, the applicant for a permit must file a map or plat of the
39 portion of the property dedicated for cemetery purposes in the office

1 of the recorder of the county in which all or a portion of the
2 property is situated. The applicant must also file, for record in the
3 county recorder's office, a written declaration of dedication of the
4 property delineated on the plat or map as the family cemetery,
5 dedicating the property exclusively to cemetery purposes.

6 (2) Upon filing the map or plat and filing of the declaration of
7 record, the dedication is complete for all purposes and thereafter
8 the property dedicated must be held, occupied, and used exclusively
9 as a cemetery and for cemetery purposes, except as otherwise provided
10 by law.

11 (3) Any part or subdivision of the property so mapped and plotted
12 may, by order of the applicant or permit holder, be resurveyed and
13 altered in shape and size and an amended map or plat filed, so long
14 as such change does not disturb the interred remains of any deceased
15 individual and the change is approved by the board.

16 (4) After property is dedicated to cemetery purposes pursuant to
17 this section, the dedication is not affected by the transfer,
18 suspension, cancellation, or nonuse of the family cemetery permit, by
19 the death of the permit holder, by alienation of the property, by any
20 encumbrance, by sale under execution, or otherwise, except as
21 provided by law.

22 (5) Dedication of property for cemetery purposes pursuant to this
23 section is not invalid as violating any laws or rules against
24 perpetuities or the suspension of the power of alienation of title to
25 or use of property, to the same extent as a dedication of property to
26 cemetery purposes pursuant to RCW 68.24.080 is not invalid.

27 (6)(a) Property dedicated to cemetery purposes pursuant to this
28 section must be held and used exclusively for cemetery purposes,
29 unless and until the dedication is removed from all or any part of
30 the property pursuant to RCW 68.24.090 and 68.24.100.

31 (b) For purposes of removing a property's dedication pursuant to
32 RCW 68.24.090 and this subsection, the permit holder may bring the
33 proceeding for removal of the dedication, or, if the permit holder is
34 deceased, if the permit is suspended or cancelled, or if no permit
35 was issued, the record owner or owners of the property encumbered by
36 the dedication may bring the proceeding.

37 (7)(a) RCW 68.24.160, 68.24.190, 68.24.220, and 68.24.240 apply
38 to property dedicated for cemetery purposes pursuant to this chapter.

39 (b) Chapter 68.60 RCW applies to property used or dedicated for
40 cemetery purposes pursuant to this chapter.

1 (8) After dedication under this chapter, and as long as the
2 property remains dedicated for cemetery purposes, a railroad, street,
3 road, alley, pipe line, pole line, or other public thoroughfare or
4 utility may not be laid out, through, over, or across any part of it
5 without the consent of the permit holder, or, without the consent of
6 the record owner or owners of the property if the permit holder is
7 deceased, a permit was never issued, or the permit is suspended or
8 cancelled.

9 NEW SECTION. **Sec. 3.** (1) Subject to RCW 68.50.160 and
10 subsections (2) and (3) of this section, the human remains of the
11 following individuals may be buried or permanently disposed of in a
12 family cemetery:

13 (a) The permit holder or the permit holder's spouse or registered
14 domestic partner;

15 (b) Issue of the permit holder or of the permit holder's spouse
16 or registered domestic partner;

17 (c) Sibling, half-sibling, or stepsibling of the permit holder or
18 of the permit holder's spouse or registered domestic partner;

19 (d) Parent or stepparent of the permit holder or of the permit
20 holder's spouse or registered domestic partner;

21 (e) Grandparent or step-grandparent of the permit holder or of
22 the permit holder's spouse or registered domestic partner, or a
23 parent or stepparent of such a grandparent or step-grandparent;

24 (f) Grandchild or great-grandchild of the permit holder or of the
25 permit holder's spouse or registered domestic partner, and issue of
26 such a grandchild or great-grandchild;

27 (g) First cousin of the permit holder or of the permit holder's
28 spouse or registered domestic partner, or issue of such a first
29 cousin;

30 (h) Uncle or aunt of the permit holder or of the permit holder's
31 spouse or registered domestic partner;

32 (i) Nephew, niece, grandnephew, or grandniece of the permit
33 holder or of the permit holder's spouse or registered domestic
34 partner; or

35 (j) Spouse or registered domestic partner of any of the
36 individuals listed in (b) through (i) of this subsection (1).

37 (2) The human remains of no more than a total of ten individuals
38 may be buried or permanently disposed of in a family cemetery
39 authorized pursuant to this chapter.

1 (3) No burial or permanent disposition of human remains may be
2 made in a family cemetery when a family cemetery license is suspended
3 or cancelled.

4 NEW SECTION. **Sec. 4.** (1) A permit holder must comply with all
5 requirements in chapter 70.58 RCW and this code applicable to a
6 person in charge of a premises on which bodies of deceased
7 individuals are permanently disposed of, including but not limited to
8 the requirements in RCW 70.58.260 that a permit be obtained prior to
9 the burial, permanent disposition, or removal of the human remains of
10 an individual, and the requirements pertaining to record retention.

11 (2) A permit holder must provide written notice to the
12 appropriate local health official of the permit holder's intent to
13 cause the burial or permanent disposition of the human remains in the
14 family cemetery.

15 (3) The burial or permanent disposition of human remains in a
16 family cemetery must be performed by a person with appropriate
17 professional expertise, as determined by the board.

18 (4) Before the human remains of an individual are buried or
19 permanently disposed of in a family cemetery, the permit holder must
20 submit a map to the board showing the exact location within the
21 family cemetery where the human remains will be buried or permanently
22 disposed of, in a format required by the board, and the permit holder
23 must pay the fee to the board authorized in section 8 of this act.

24 NEW SECTION. **Sec. 5.** The board may adopt rules on the
25 following:

26 (1) Appropriate documentation to establish that an applicant for
27 a permit is the record owner of the property on which the family
28 cemetery is proposed to be located, and that all record owners of the
29 property agree to dedicate all or a portion of the property for
30 cemetery purposes;

31 (2) The format and style of maps or plats that must be submitted
32 to the board in accordance with sections 1 and 4 of this act;

33 (3) Record retention by permit holders, including the types and
34 format of records and documents that permit holders must maintain,
35 and the length of time such records and documents must be maintained;

36 (4) Reasonable limitations and prohibitions on the siting of a
37 family cemetery related to public health and safety concerns, such as
38 but not limited to the property's proximity to a groundwater source

1 or a flood zone, or the location of the family cemetery on the
2 property relative to neighboring properties;

3 (5) Procedures a permit holder must follow regarding the burial
4 or permanent disposition of human remains; and

5 (6) Establishing the people who have the appropriate level of
6 professional expertise who may perform, in consultation with the
7 permit holder, the burial or permanent disposition of human remains
8 at a family cemetery.

9 NEW SECTION. **Sec. 6.** No city, town, county, or subdivision of
10 the state may:

11 (1) Prohibit the use of property within its jurisdiction as a
12 family cemetery if a family cemetery is in compliance with this
13 chapter; or

14 (2) Require any fee, permit, license, or authorization in order
15 for a person to use property within its jurisdiction as a family
16 cemetery in accordance with this chapter.

17 NEW SECTION. **Sec. 7.** (1) The definitions in chapter 68.04 RCW
18 are applicable to this chapter and govern the meaning of terms used
19 in this chapter, except as otherwise provided.

20 (2) The definitions in this section apply throughout this chapter
21 unless the context clearly requires otherwise.

22 (a) "Board" means the funeral and cemetery board established in
23 RCW 18.39.173.

24 (b) "Department" means the department of licensing.

25 (c) "Family cemetery" means a cemetery owned by a permit holder.

26 (d) "Issue" has the same meaning as in RCW 11.02.005(8).

27 (e) "Permit holder" means the individual who holds a family
28 cemetery permit issued in accordance with this chapter, and includes
29 an individual to whom a family cemetery permit is transferred in
30 accordance with this chapter.

31 (f) "Record owner" means the person who owns real property as is
32 shown in the records of the office of the recorder of the county in
33 which all or a portion of the property is situated.

34 NEW SECTION. **Sec. 8.** A new section is added to chapter 68.05
35 RCW to read as follows:

36 (1) The board must maintain records of the applications,
37 documents, and maps submitted to or obtained by the board pursuant to

1 chapter 68.--- RCW (the new chapter created in section 15 of this
2 act).

3 (2) The board may charge an individual submitting a map document
4 in accordance with section 4 of this act a fee of not more than
5 twenty-five dollars for each submission of a map document accepted by
6 the board. The board and department may agree the department will set
7 the amount of and accept fees from permit holders due to the board
8 under chapter 68.--- RCW (the new chapter created in section 15 of
9 this act), and, if so, a person must pay such fees directly to the
10 department. Moneys received from fees pursuant to this section must
11 be transmitted to the state treasurer for deposit into the general
12 fund, on a schedule determined by the state treasurer.

13 **Sec. 9.** RCW 68.05.090 and 2005 c 365 s 51 are each amended to
14 read as follows:

15 The board (~~((shall))~~) must enforce and administer the provisions of
16 chapters 68.04 through 68.50 RCW and chapter 68.--- RCW (the new
17 chapter created in section 15 of this act), subject to provisions of
18 RCW 68.05.400. The board may adopt and amend bylaws establishing its
19 organization and method of operation. The board may refer such
20 evidence as may be available concerning violations of chapters 68.04
21 through 68.50 RCW and chapter 68.--- RCW (the new chapter created in
22 section 15 of this act) to the attorney general or the proper
23 prosecuting attorney, who may in his or her discretion, with or
24 without such a reference, in addition to any other action the board
25 might commence, bring an action against any person to restrain or
26 prevent the doing of any act or practice prohibited or declared
27 unlawful in chapters 68.04 through 68.50 RCW and chapter 68.--- RCW
28 (the new chapter created in section 15 of this act) and (~~((shall))~~)
29 have standing to seek enforcement of said provisions in the superior
30 court of the state of Washington for the county in which the
31 principal office of the cemetery authority is located, or in the case
32 of an alleged violation of chapter 68.--- RCW (the new chapter
33 created in section 15 of this act), in the superior court of the
34 state of Washington for a county in which the property on which a
35 family cemetery is situated.

36 **Sec. 10.** RCW 68.05.400 and 1979 c 21 s 13 are each amended to
37 read as follows:

1 (1) The provisions of this chapter do not apply to any of the
2 following:

3 (~~(1)~~) (a) Nonprofit cemeteries which are owned or operated by
4 any recognized religious denomination which qualifies for an
5 exemption from real estate taxation under RCW 84.36.020 on any of its
6 churches or the ground upon which any of its churches are or will be
7 built; or

8 (~~(2)~~) (b) Any cemetery controlled and operated by a coroner,
9 county, city, town, or cemetery district.

10 (2)(a) Only the following sections of this chapter apply to
11 family cemeteries for which a permit is held or should be held
12 pursuant to chapter 68.--- RCW (the new chapter created in section 15
13 of this act): RCW 68.05.090, 68.05.120, 68.05.173, 68.05.175,
14 68.05.195, and 68.05.290.

15 (b) Nothing in this subsection (2) is intended to authorize a
16 holder of a family cemetery permit to act as or exercise any powers
17 of a cemetery authority, other than as provided in chapter 68.--- RCW
18 (the new chapter created in section 15 of this act).

19 **Sec. 11.** RCW 68.20.080 and 1943 c 247 s 143 are each amended to
20 read as follows:

21 Except as provided in section 6 of this act, cities and counties
22 are authorized to enact ordinances regulating or prohibiting the
23 establishment of new cemeteries or the extension of existing ones and
24 to give power to local planning commissions to pass upon and make
25 recommendations to local legislative bodies concerning the
26 establishment or extension of cemeteries.

27 **Sec. 12.** RCW 68.20.140 and 1987 c 331 s 33 are each amended to
28 read as follows:

29 (1) This chapter does not apply to:

30 (a) Any cemetery controlled and operated by a coroner, county,
31 city, town, or cemetery district; or

32 (b) A holder of a family cemetery permit issued in accordance
33 with chapter 68.--- RCW (the new chapter created in section 15 of
34 this act).

35 (2) Nothing in subsection (1)(b) of this section is intended to
36 authorize a holder of a family cemetery permit to act as or exercise
37 any powers of a cemetery authority, other than as provided in chapter
38 68.--- RCW (the new chapter created in section 15 of this act).

1 **Sec. 13.** RCW 68.40.095 and 1987 c 331 s 40 are each amended to
2 read as follows:

3 (1) This chapter does not apply to:

4 (a) Any cemetery controlled and operated by a coroner, county,
5 city, town, or cemetery district; or

6 (b) A holder of a family cemetery permit issued in accordance
7 with chapter 68.--- RCW (the new chapter created in section 15 of
8 this act).

9 (2) Nothing in subsection (1)(b) of this section is intended to
10 authorize a holder of a family cemetery permit to act as or exercise
11 any powers of a cemetery authority, other than as provided in chapter
12 68.--- RCW (the new chapter created in section 15 of this act).

13 **Sec. 14.** RCW 68.44.180 and 1987 c 331 s 49 are each amended to
14 read as follows:

15 (1) This chapter does not apply to:

16 (a) Any cemetery controlled and operated by a coroner, county,
17 city, town, or cemetery district; or

18 (b) A holder of a family cemetery permit issued in accordance
19 with chapter 68.--- RCW (the new chapter created in section 15 of
20 this act).

21 (2) Nothing in subsection (1)(b) of this section is intended to
22 authorize a holder of a family cemetery permit to act as or exercise
23 any powers of a cemetery authority, other than as provided in chapter
24 68.--- RCW (the new chapter created in section 15 of this act).

25 NEW SECTION. **Sec. 15.** Sections 1 through 7 of this act
26 constitute a new chapter in Title 68 RCW.

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