

AMENDED IN ASSEMBLY MARCH 18, 2002

AMENDED IN SENATE JANUARY 9, 2002

AMENDED IN SENATE MARCH 27, 2001

**SENATE BILL**

**No. 17**

**Introduced by Senator Figueroa**

**(Coauthor: Senator Karnette)**

~~(Coauthors: Assembly Members Alquist, Aroner, Bates, Havice,  
Keeley, Richman, Shelley, and Strom-Martin)~~

December 4, 2000

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~~An act to amend Sections 7085 and 7091 of, to add Section 7122.2 to, and to repeal Section 7085.8 of, the Business and Professions Code, relating to contractors. An act to amend Section 9787 of, and to add Sections 9715.1, 9721, and 9722 to, the Business and Professions Code and to amend Sections 7054, 7103, 7111, 103775, and 103780 of the Health and Safety Code, relating to health and safety.~~

LEGISLATIVE COUNSEL'S DIGEST

SB 17, as amended, Figueroa. ~~Arbitration of contractors disputes~~  
*Health and safety: cemeteries: human remains: vital records.*

*(1) Existing law, the Cemeteries Act, provides for the licensing and regulation of cemeteries and crematories by the Cemetery and Funeral Bureau.*

*This bill would require all cemeteries for which a certificate of authority is required and all crematories which are licensed to be supervised by a manager that has passed a written examination demonstrating an understanding of applicable provisions regarding, among other things, the disposal of human remains. This bill would require the bureau to inspect the books, records, and premises of any*

*cemetery for which a certificate of authority from the bureau is required. This bill would require that the bureau have access to all books, records, buildings, mausoleums, columbariums, and storage areas during specified times and that the bureau conduct at least one annual unannounced inspection of a cemetery for which a certificate of authority is required. This bill would prohibit a person from engaging in the business of, acting as, or advertising as, a cemetery or crematory manager without a license from the bureau.*

*(2) Existing law provides that, unless specified, it is a misdemeanor to deposit or dispose of human remains except in a cemetery. Existing law additionally provides that it is a misdemeanor to fail to intern a corpse within a reasonable period of time if one has a legal duty to do so, that it is a misdemeanor to fail to furnish or to furnish false information affecting specified certificates or records, and that it is a misdemeanor to willfully alter or knowingly possess altered documents or to falsify a birth certificate, death certificate, or marriage certificate.*

*This bill would instead provide that these actions would be felonies. By increasing these penalties from misdemeanors to felonies, this bill would impose a state-mandated local program.*

*(3) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.*

*This bill would provide that no reimbursement is required by this act for a specified reason.*

~~Existing law, the Contractors' State License Law, provides for arbitration of disputes arising out of cases filed with or by the Contractors' State License Board. The registrar is the executive officer who carries out the board's administrative duties and tasks delegated by the board, and is authorized to issue a citation for a violation of specified provisions that may result in the assessment of a civil penalty.~~

~~Existing law authorizes the registrar to refer specified complaints, where the licensee is in good standing at the time of the referral, to arbitration, with the concurrence of both the licensee and the complainant, if there is evidence that the complainant has suffered or is likely to suffer damages greater than \$5,000 and less than \$50,000. The registrar is required to refer these complaints to arbitration, where the licensee is in good standing at the time of the referral, if the contract price is equal to or less than \$5,000 or if the demand for damages is equal to or less than \$5,000. Existing law also requires that an~~



~~accusation or citation against a licensee be filed by the registrar within a specified time period.~~

~~This bill would change the amount in dispute requirement for mandatory arbitration to \$7,500 or less, and would require that referrals to the arbitration program be subject to the same statute of limitation as are accusations or citations by the registrar. The bill would also remove the requirement that a licensee be in good standing at the time of a referral in order to qualify for referral to arbitration. The bill would provide that the disassociation of any qualifying partner, responsible managing officer, or responsible managing employee from a license that has been referred to arbitration does not relieve the qualifying partner, responsible managing officer, or responsible managing employee from responsibility for complying with an award rendered as a result of an arbitration referral. In addition, the bill would make a nonsubstantive change.~~

~~Vote: majority. Appropriation: no. Fiscal committee: no—yes. State-mandated local program: no—yes.~~

*The people of the State of California do enact as follows:*

1 ~~SECTION 1.—Section 7085 of the Business and Professions~~

2 ~~SECTION 1. Section 9715.1 is added to the Business and~~  
3 ~~Professions Code, to read:~~

4 ~~9715.1. Each cemetery for which a certificate of authority is~~  
5 ~~required shall be operated under the supervision of a manager who~~  
6 ~~is qualified in accordance with the regulations adopted by the~~  
7 ~~bureau. Each cemetery manager shall be required to successfully~~  
8 ~~pass a written examination evidencing an understanding of the~~  
9 ~~applicable provisions of this code and of the Health and Safety~~  
10 ~~Code. No person shall engage in the business of, act in the capacity~~  
11 ~~of, or advertise or assume to act as, a crematory manager without~~  
12 ~~first obtaining a license from the bureau.~~

13 ~~SEC. 2. Section 9721 is added to the Business and Professions~~  
14 ~~Code, to read:~~

15 ~~9721. The bureau shall inspect the books, records, and~~  
16 ~~premises of any cemetery where a certificate of authority is~~  
17 ~~required under this chapter. In making the inspections, the bureau~~  
18 ~~shall have access to all books and records, buildings, mausoleums,~~  
19 ~~columbariums, storage areas, including storage areas for human~~  
20 ~~remains, during regular office hours or the hours the cemetery is~~



1 *in operation. No prior notification of the inspection is required to*  
2 *be given to the holder of the certificate of authority. If any*  
3 *certificate holder fails to allow the inspection or any part thereof,*  
4 *disciplinary action including, but not limited to, revocation or*  
5 *suspension may be taken against the certificate of authority. All*  
6 *disciplinary proceedings shall be conducted in accordance with*  
7 *this chapter.*

8 *SEC. 3. Section 9722 is added to the Business and Professions*  
9 *Code, to read:*

10 *9722. The bureau shall annually conduct a minimum of one*  
11 *unannounced inspection of each cemetery for which a certificate*  
12 *of authority is required.*

13 *SEC. 4. Section 9787 of the Business and Professions Code is*  
14 *amended to read:*

15 *9787. Each crematory for which a crematory license is*  
16 *required shall be operated under the supervision of a manager*  
17 *qualified as such in accordance with rules adopted by the bureau.*  
18 *Each manager shall be required to successfully pass a written*  
19 *examination evidencing an understanding of the applicable*  
20 *provisions of this code and of the Health and Safety Code of this*  
21 *state. No person shall engage in the business of, act in the capacity*  
22 *of, or advertise or assume to act as, a crematory manager without*  
23 *first obtaining a license from the bureau.*

24 *SEC. 5. Section 7054 of the Health and Safety Code is*  
25 *amended to read:*

26 *7054. (a) Except as authorized pursuant to the sections*  
27 *referred to in subdivision (b), every person who deposits or*  
28 *disposes of any human remains in any place, except in a cemetery,*  
29 *is guilty of a misdemeanor or felony.*

30 *(b) Cremated remains may be disposed of pursuant to Sections*  
31 *7054.6, 7116, 7117, and 103060, or Sections 7054.6 and 103060.*

32 *(c) Subdivision (a) of this section shall not apply to the reburial*  
33 *of Native American remains under an agreement developed*  
34 *pursuant to subdivision (l) of Section 5097.94 of the Public*  
35 *Resources Code, or implementation of a recommendation or*  
36 *agreement made pursuant to Section 5097.98 of the Public*  
37 *Resources Code.*

38 *SEC. 6. Section 7103 of the Health and Safety Code is*  
39 *amended to read:*



1 7103. Every person, upon whom the duty of interment is  
2 imposed by law, who omits to perform that duty within a  
3 reasonable time is guilty of a ~~misdemeanor~~ *felony*. In addition, he  
4 *or she* is liable to pay to the person performing the duty in his *or*  
5 *her* stead treble the expenses incurred by the latter in making the  
6 interment, to be recovered in a civil action.

7 *SEC. 7. Section 7111 of the Health and Safety Code is*  
8 *amended to read:*

9 7111. A cemetery authority *or crematory* may make an  
10 interment or cremation of any remains upon the receipt of a written  
11 authorization of a person representing himself or herself to be a  
12 person having the right to control the disposition of the remains  
13 pursuant to Section 7100.

14 A cemetery authority *or crematory* is not liable for cremating,  
15 making an interment, or for other disposition of remains permitted  
16 by law, pursuant to that authorization, unless it has actual notice  
17 that the representation is untrue.

18 *SEC. 8. Section 103775 of the Health and Safety Code is*  
19 *amended to read:*

20 103775. Every person, except a parent informant for a  
21 certificate of live birth, who is responsible for supplying  
22 information who refuses or fails to furnish correctly any  
23 information in his or her possession that is required by this part,  
24 or furnishes false information affecting any certificate or record  
25 required by this part, is guilty of a ~~misdemeanor~~ *felony*.

26 *SEC. 9. Section 103780 of the Health and Safety Code is*  
27 *amended to read:*

28 103780. Every person who willfully alters or knowingly  
29 possesses more than one altered document, other than as permitted  
30 by this part, or falsifies any certificate of birth, fetal death, death,  
31 or registry of marriage, or any record established by this part is  
32 guilty of a ~~misdemeanor~~ *felony*.

33 *SEC. 10. No reimbursement is required by this act pursuant*  
34 *to Section 6 of Article XIII B of the California Constitution*  
35 *because the only costs that may be incurred by a local agency or*  
36 *school district will be incurred because this act creates a new crime*  
37 *or infraction, eliminates a crime or infraction, or changes the*  
38 *penalty for a crime or infraction, within the meaning of Section*  
39 *17556 of the Government Code, or changes the definition of a*



1 *crime within the meaning of Section 6 of Article XIII B of the*  
2 *California Constitution.*

3 ~~Code is amended to read:~~

4 ~~7085.—(a) After investigating any verified complaint alleging~~  
5 ~~a violation of Section 7107, 7109, 7110, 7113, 7119, or 7120, and~~  
6 ~~any complaint arising from a contract involving works of~~  
7 ~~improvement as defined in Section 7151 and finding a possible~~  
8 ~~violation, the registrar may, with the concurrence of both the~~  
9 ~~licensee and the complainant, refer the alleged violation, and any~~  
10 ~~dispute between the licensee and the complainant arising~~  
11 ~~thereunder, to arbitration pursuant to this article, provided the~~  
12 ~~registrar finds that:~~

13 ~~(1) There is evidence that the complainant has suffered or is~~  
14 ~~likely to suffer material damages as a result of a violation of~~  
15 ~~Section 7107, 7109, 7110, 7113, 7119, or 7120, and any complaint~~  
16 ~~arising from a contract involving works of improvement as~~  
17 ~~defined in Section 7151.~~

18 ~~(2) There are reasonable grounds for the registrar to believe~~  
19 ~~that the public interest would be better served by arbitration than~~  
20 ~~by disciplinary action.~~

21 ~~(3) The licensee does not have a history of repeated or similar~~  
22 ~~violations.~~

23 ~~(4) The licensee was in good standing at the time of the alleged~~  
24 ~~violation.~~

25 ~~(5) The licensee does not have any outstanding disciplinary~~  
26 ~~actions filed against him or her.~~

27 ~~(6) The parties have not previously agreed to private arbitration~~  
28 ~~of the dispute pursuant to contract or otherwise.~~

29 ~~(7) The parties have been advised of the provisions of Section~~  
30 ~~2855 of the Civil Code.~~

31 ~~For the purposes of paragraph (1), “material damages” means~~  
32 ~~damages greater than seven thousand five hundred dollars~~  
33 ~~(\$7,500) and less than fifty thousand dollars (\$50,000).~~

34 ~~(b) In all cases in which a possible violation of the sections set~~  
35 ~~forth in paragraph (1) of subdivision (a) exists and the contract~~  
36 ~~price is equal to or less than seven thousand five hundred dollars~~  
37 ~~(\$7,500), or the demand for damages is equal to or less than seven~~  
38 ~~thousand five hundred dollars (\$7,500) regardless of the contract~~  
39 ~~price, the complaint shall be referred to arbitration, utilizing the~~



1 criteria set forth in paragraphs (2) to (6), inclusive, of subdivision  
2 (a).

3 ~~SEC. 2.—Section 7085.8 of the Business and Professions Code~~  
4 ~~is repealed.~~

5 ~~SEC. 3.—Section 7091 of the Business and Professions Code~~  
6 ~~is amended to read:~~

7 ~~7091. (a) A complaint against a licensee alleging~~  
8 ~~commission of any patent acts or omissions that may be grounds~~  
9 ~~for legal action shall be filed in writing with the registrar within~~  
10 ~~four years after the act or omission alleged as the ground for the~~  
11 ~~disciplinary action. An accusation or citation against a licensee~~  
12 ~~shall be filed or a referral to the arbitration program outlined in~~  
13 ~~Section 7085 shall be referred within four years after the patent act~~  
14 ~~or omission alleged as the ground for disciplinary action or~~  
15 ~~arbitration or within 18 months from the date of the filing of the~~  
16 ~~complaint with the registrar, whichever is later, except that with~~  
17 ~~respect to an accusation alleging a violation of Section 7112, the~~  
18 ~~accusation may be filed within two years after the discovery by the~~  
19 ~~registrar or by the board of the alleged facts constituting the fraud~~  
20 ~~or misrepresentation prohibited by the section.~~

21 ~~(b) A complaint against a licensee alleging commission of any~~  
22 ~~latent acts or omissions that may be grounds for legal action~~  
23 ~~pursuant to subdivision (a) of Section 7109 regarding structural~~  
24 ~~defects, as defined by regulation, shall be filed in writing with the~~  
25 ~~registrar within 10 years after the act or omission alleged as the~~  
26 ~~ground for the disciplinary action. An accusation and citation~~  
27 ~~against a licensee shall be filed within 10 years after the latent act~~  
28 ~~or omission alleged as the ground for disciplinary action or within~~  
29 ~~18 months from the date of the filing of the complaint with the~~  
30 ~~registrar, whichever is later, except that with respect to an~~  
31 ~~accusation alleging a violation of Section 7112, the accusation~~  
32 ~~may be filed within two years after the discovery by the registrar~~  
33 ~~or by the board of the alleged facts constituting the fraud or~~  
34 ~~misrepresentation prohibited by Section 7112. As used in this~~  
35 ~~section “latent act or omission” means an act or omission that is~~  
36 ~~not apparent by reasonable inspection.~~

37 ~~(c) An accusation regarding an alleged breach of an express,~~  
38 ~~written warranty for a period in excess of the time periods~~  
39 ~~specified in subdivisions (a) and (b) issued by the contractor shall~~  
40 ~~be filed within the duration of that warranty.~~



1     ~~(d) The proceedings under this article shall be conducted in~~  
2 ~~accordance with the provisions of Chapter 5 (commencing with~~  
3 ~~Section 11500) of Part 1 of Division 3 of Title 2 of the Government~~  
4 ~~Code, and the registrar shall have all the powers granted therein.~~  
5     ~~(e) Nothing in this section shall be construed to affect the~~  
6 ~~liability of a surety or the period of limitations prescribed by law~~  
7 ~~for the commencement of actions against a surety or cash deposit.~~  
8     ~~SEC. 4. Section 7122.2 is added to the Business and~~  
9 ~~Professions Code, to read:~~  
10     ~~7122.2. Notwithstanding Section 7068.2 or any other~~  
11 ~~provisions of this chapter, the disassociation of any qualifying~~  
12 ~~partner, responsible managing officer, or responsible managing~~  
13 ~~employee from a license that has been referred to arbitration~~  
14 ~~pursuant to Section 7085 shall not relieve the qualifying partner,~~  
15 ~~responsible managing officer, or responsible managing employee~~  
16 ~~from responsibility for complying with the award rendered as a~~  
17 ~~result of an arbitration referral. Section 7122.5 shall apply to any~~  
18 ~~qualifying partner, responsible managing officer, or responsible~~  
19 ~~managing employee of a licensee that fails to comply with an~~  
20 ~~arbitration award once it is rendered.~~  
21

