

AMENDED IN ASSEMBLY JUNE 30, 2002
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

December 4, 2000

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. 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~~ *inter* 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. *Existing law provides that a misdemeanor is punished by imprisonment in a county jail for 6 months, by a \$1,000 fine, or by both the imprisonment and fine, unless a different punishment is prescribed by law.*

This bill would ~~instead provide~~ *specify that punishment for these actions would be felonies include imprisonment in a county jail not exceeding 1 year or by a fine not exceeding \$10,000, or by both the imprisonment and the fine.* By increasing *the imprisonment for these penalties from misdemeanors to felonies,* ~~this~~ *the* 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.

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

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

1 SECTION 1. Section 9715.1 is added to the Business and
 2 Professions Code, to read:
 3 9715.1. Each cemetery for which a certificate of authority is
 4 required shall be operated under the supervision of a manager who
 5 is qualified in accordance with the regulations adopted by the
 6 bureau. Each cemetery manager shall be required to successfully



1 pass a written examination evidencing an understanding of the
2 applicable provisions of this code and of the Health and Safety
3 Code. No person shall engage in the business of, act in the capacity
4 of, or advertise or assume to act as, a ~~crematory~~ *cemetery* manager
5 without first obtaining a license from the bureau.

6 SEC. 2. Section 9721 is added to the Business and Professions
7 Code, to read:

8 9721. The bureau shall inspect the books, records, and
9 premises of any cemetery where a certificate of authority is
10 required under this chapter. In making the inspections, the bureau
11 shall have access to all books and records, buildings, mausoleums,
12 columbariums, storage areas, including storage areas for human
13 remains, during regular office hours or the hours the cemetery is
14 in operation. No prior notification of the inspection is required to
15 be given to the holder of the certificate of authority. If any
16 certificate holder fails to allow the inspection or any part thereof,
17 disciplinary action including, but not limited to, revocation or
18 suspension may be taken against the certificate of authority. All
19 disciplinary proceedings shall be conducted in accordance with
20 this chapter.

21 SEC. 3. Section 9722 is added to the Business and Professions
22 Code, to read:

23 9722. The bureau shall annually conduct a minimum of one
24 unannounced inspection of each cemetery for which a certificate
25 of authority is required.

26 SEC. 4. Section 9787 of the Business and Professions Code
27 is amended to read:

28 9787. Each crematory for which a crematory license is
29 required shall be operated under the supervision of a manager
30 qualified in accordance with rules adopted by the bureau. Each
31 manager shall be required to successfully pass a written
32 examination evidencing an understanding of the applicable
33 provisions of this code and of the Health and Safety Code . No
34 person shall engage in the business of, act in the capacity of, or
35 advertise or assume to act as, a crematory manager without first
36 obtaining a license from the bureau.

37 SEC. 5. Section 7054 of the Health and Safety Code is
38 amended to read:

39 7054. (a) Except as authorized pursuant to the sections
40 referred to in subdivision (b), every person who deposits or



1 disposes of any human remains in any place, except in a cemetery,
2 is guilty of a ~~felony~~ *misdemeanor that shall be punishable by*
3 *imprisonment in a county jail not exceeding one year, by a fine not*
4 *exceeding ten thousand dollars (\$10,000), or both.*

5 (b) Cremated remains may be disposed of pursuant to Sections
6 7054.6, 7116, 7117, and 103060.

7 (c) Subdivision (a) of this section shall not apply to the reburial
8 of Native American remains under an agreement developed
9 pursuant to subdivision (l) of Section 5097.94 of the Public
10 Resources Code, or implementation of a recommendation or
11 agreement made pursuant to Section 5097.98 of the Public
12 Resources Code.

13 SEC. 6. Section 7103 of the Health and Safety Code is
14 amended to read:

15 7103. Every person, upon whom the duty of interment is
16 imposed by law, who omits to perform that duty within a
17 reasonable time is guilty of a ~~felony~~ *misdemeanor that shall be*
18 *punishable by imprisonment in a county jail not exceeding one*
19 *year, by a fine not exceeding ten thousand dollars (\$10,000), or*
20 *both.* In addition, he or she is liable to pay to the person performing
21 the duty in his or her stead treble the expenses incurred by the latter
22 in making the interment, to be recovered in a civil action.

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

25 7111. A cemetery authority or crematory may make an
26 interment or cremation of any remains upon the receipt of a written
27 authorization of a person representing himself or herself to be a
28 person having the right to control the disposition of the remains
29 pursuant to Section 7100.

30 A cemetery authority or crematory is not liable for cremating,
31 making an interment, or for other disposition of remains permitted
32 by law, pursuant to that authorization, unless it has actual notice
33 that the representation is untrue.

34 SEC. 8. Section 103775 of the Health and Safety Code is
35 amended to read:

36 103775. (a) Every person, except a parent informant for a
37 certificate of live birth *and as provided in subdivision (b)*, who is
38 responsible for supplying information who refuses or fails to
39 furnish correctly any information in his or her possession that is
40 required by this part, or furnishes false information affecting any



1 certificate or record required by this part, is guilty of a ~~felony~~
2 *misdemeanor*.

3 *(b) Every licensee or registrant pursuant to Chapter 12*
4 *(commencing with Section 7600) or Chapter 19 (commencing with*
5 *Section 9600) of Division 3 of the Business and Professions Code,*
6 *and the agents and employees of the licensee, or any unlicensed*
7 *person acting in a capacity in which a license from the Cemetery*
8 *and Funeral Bureau is required, who is responsible for supplying*
9 *information and who refuses or fails to furnish correctly any*
10 *information in his or her possession that is required by this part,*
11 *or furnishes false information with intent to defraud affecting a*
12 *death certificate or record required by this part, is guilty of a*
13 *misdemeanor that shall be punishable by imprisonment in a county*
14 *jail not exceeding one year; by a fine not exceeding ten thousand*
15 *dollars (\$10,000), or both.*

16 SEC. 9. Section 103780 of the Health and Safety Code is
17 amended to read:

18 103780. *(a) Every person, except as provided in subdivision*
19 *(b), who willfully alters or knowingly possesses more than one*
20 *altered document, other than as permitted by this part, or falsifies*
21 *any certificate of birth, fetal death, death, or registry of marriage,*
22 *or any record established by this part is guilty of a ~~felony~~*
23 *misdemeanor.*

24 *(b) Every licensee or registrant pursuant to Chapter 12*
25 *(commencing with Section 7600) or Chapter 19 (commencing with*
26 *Section 9600) of Division 3 of the Business and Professions Code,*
27 *and the agents and employees of the licensee, or any unlicensed*
28 *person acting in a capacity in which a license from the Cemetery*
29 *and Funeral Bureau is required, who willfully alters or knowingly*
30 *possesses more than one altered document, other than as permitted*
31 *by this part, or falsifies any certificate of death, is guilty of a*
32 *misdemeanor that shall be punishable by imprisonment in a county*
33 *jail not exceeding one year; by a fine not exceeding ten thousand*
34 *dollars (\$10,000), or both.*

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



1 17556 of the Government Code, or changes the definition of a
2 crime within the meaning of Section 6 of Article XIII B of the
3 California Constitution.
4

O

