

Senate Bill No. 17

CHAPTER 819

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.

[Approved by Governor September 23, 2002. Filed with Secretary of State September 23, 2002.]

LEGISLATIVE COUNSEL'S DIGEST

SB 17, 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, on and after July 1, 2003, 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, on and after July 1, 2003, 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, on and after July 1, 2003, at least one annual unannounced inspection of a cemetery for which a certificate of authority is required. This bill would, on and after July 1, 2003, 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 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 punishable by imprisonment in a county



jail for 6 months, by a \$1,000 fine, or by both that imprisonment and fine, unless a different punishment is prescribed by law.

This bill would specify that punishment of licensees and certain unlicensed persons for these actions would include imprisonment in a county jail not exceeding 1 year, or by a fine not exceeding \$10,000, or by both that imprisonment and fine. By increasing the imprisonment for these misdemeanors, 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.

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

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

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

(b) This section shall become operative on July 1, 2003.

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

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

(b) This section shall become operative on July 1, 2003.



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

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

(b) This section shall become operative on July 1, 2003.

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

9787. (a) Each crematory for which a crematory license is required shall be operated under the supervision of a manager qualified in accordance with rules adopted by the bureau. Each manager shall be required to successfully pass a written examination evidencing an understanding of the applicable provisions of this code and of the Health and Safety Code.

(b) On and after July 1, 2003, no person shall engage in the business of, act in the capacity of, or advertise or assume to act as, a crematory manager without first obtaining a license from the bureau.

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

7054. (a) (1) Except as authorized pursuant to the sections referred to in subdivision (b), every person who deposits or disposes of any human remains in any place, except in a cemetery, is guilty of a misdemeanor.

(2) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) or Chapter 19 (commencing with Section 9600) of Division 3 of the Business and Professions Code and the agents and employees of the licensee or registrant, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, who, except as authorized pursuant to the sections referred to in subdivision (b), deposits or disposes of any human remains in any place, except in a cemetery, is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or both that imprisonment and fine.

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

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

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



7103. (a) Every person, upon whom the duty of interment is imposed by law, who omits to perform that duty within a reasonable time is guilty of a misdemeanor.

(b) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) or Chapter 19 (commencing with Section 9600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee or registrant, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, upon whom the duty of interment is imposed by law, who omits to perform that duty within a reasonable time is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or both that imprisonment and fine.

(c) In addition, any person, registrant, or licensee described in subdivision (a) or (b) is liable to pay the person performing the duty in his or her stead treble the expenses incurred by the latter in making the interment, to be recovered in a civil action.

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

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

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

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

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

(b) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) or Chapter 19 (commencing with Section 9600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, who is responsible for supplying information and who refuses or fails to furnish correctly any information in his or her possession that is required by this part, or furnishes false information with intent to defraud



affecting a death certificate or record required by this part, is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or by both that imprisonment and fine.

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

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

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

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

