

AMENDED IN SENATE AUGUST 6, 2012

AMENDED IN SENATE JUNE 25, 2012

AMENDED IN SENATE MAY 29, 2012

SENATE BILL

No. 1197

Introduced by Senator Calderon

February 22, 2012

An act to amend Section 8344.5 of, *and to add Section 8344.6 to*, the Health and Safety Code, relating to crematories, and declaring the urgency thereof, to take effect immediately.

LEGISLATIVE COUNSEL'S DIGEST

SB 1197, as amended, Calderon. Crematories: burning of flags.

Existing law provides that a crematory regulated by the Cemetery and Funeral Bureau shall knowingly cremate only human remains in cremation chambers, along with cremation containers, items used for disease control, and personal effects of the deceased.

This bill additionally would authorize the cremation of one or more American flags, *performed separately from the cremation of human remains and* in accordance with specified federal law, during the periods within one week before or after specified holidays. *The bill would require a crematory to record and maintain on its premises for at least 10 years prescribed information regarding cremations of American flags.* The bill would declare that it would not be construed to restrict or infringe upon any person's First Amendment rights, as specified.

This bill would declare that it is to take effect immediately as an urgency statute.

Vote: $\frac{2}{3}$. Appropriation: no. Fiscal committee: yes.

State-mandated local program: no.

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

1 SECTION 1. Section 8344.5 of the Health and Safety Code is
 2 amended to read:

3 8344.5. (a) Except as provided in subdivision (b), a crematory
 4 regulated by the Cemetery and Funeral Bureau shall knowingly
 5 cremate only human remains in cremation chambers, along with
 6 the cremation container, personal effects of the deceased, and no
 7 more than a negligible amount of chlorinated plastic pouches
 8 utilized for disease control when necessary.

9 (b) (1) A crematory regulated by the Cemetery and Funeral
 10 Bureau may also cremate one or more American flags, under the
 11 following conditions:

12 (A) *Cremation of the flag or flags is performed separately from*
 13 *the cremation of human remains, as provided in subdivision (a).*

14 ~~(A)~~

15 (B) *Cremation of the flag or flags is in accordance with Section*
 16 *8(k) of Title 4 of the United States Code* ~~section 8(k).~~

17 ~~(B)~~

18 (C) *Cremation of the flag or flags occurs within one week before*
 19 *or after any of the following:*

20 (i) *Memorial Day.*

21 (ii) *Flag Day.*

22 (iii) *Independence Day.*

23 (2) *Nothing in this subdivision shall be construed to attempt to*
 24 *restrict or otherwise infringe upon any person’s right to free*
 25 *expression under the First Amendment of to the United States*
 26 *Constitution.*

27 SEC. 2. *Section 8344.6 is added to the Health and Safety Code,*
 28 *to read:*

29 8344.6. (a) *A crematory that cremates an American flag or*
 30 *flags pursuant to Section 8344.5 shall maintain on its premises an*
 31 *accurate record of all cremations of American flags performed as*
 32 *specified in Section 8344.5, including all of the following*
 33 *information:*

34 (1) *Name of the organization or person requesting cremation*
 35 *of the flag.*

36 (2) *Date of cremation of the flag.*

37 (3) *Name of the cremation chamber operator.*

1 (4) *Time and date that the flag was inserted in the cremation*
2 *chamber.*

3 (5) *Time and date that the flag was removed from the cremation*
4 *chamber.*

5 (6) *Weight of the ashes of the flag after being removed from the*
6 *cremation chamber.*

7 (7) *Disposition of the ashes of the cremated flag.*

8 (b) *This information shall be maintained for at least 10 years*
9 *after an American flag is cremated and shall be subject to*
10 *inspection by the Cemetery and Funeral Bureau.*

11 ~~SEC. 2.~~

12 SEC. 3. This act is an urgency statute necessary for the
13 immediate preservation of the public peace, health, or safety within
14 the meaning of Article IV of the Constitution and shall go into
15 immediate effect. The facts constituting the necessity are:

16 In order to ensure that appropriate state agencies have clear
17 direction with respect to the regulation of crematories, and that
18 crematories operating under state law are adequately protected at
19 the earliest possible time, it is necessary that this act take effect
20 immediately.