

Assembly Bill No. 1705

CHAPTER 614

An act to amend Sections 7685.2, 9741, and 9745 of, and to add Sections 9740.5 and 9741.1 to, the Business and Professions Code, and to amend Sections 7010.7, 7054, 7116, 7117, and 103055 of the Health and Safety Code, relating to human remains.

[Approved by Governor September 19, 1998. Filed
with Secretary of State September 21, 1998.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1705, Torlakson. Cremated remains.

Existing law imposes various requirements upon funeral directors with respect to entering into a contract for furnishing services or property in connection with the burial or other disposal of a dead human body.

This bill would require a funeral director to obtain from a person with the right to control the disposition, or from a person prearranging for the cremation and disposition of his or her own remains, a signed declaration designating, among other things, specific instructions with respect to the disposition of cremated remains. The funeral director, when entering into a contract to furnish cremation services, would also be required to provide a written or printed notice to the potential purchaser of cremation services as to obtaining additional information on cremation matters, removal of cremated remains, and cremated remains containers.

Existing law prohibits any person from disposing of or offering to dispose of any cremated human remains unless registered as a cremated remains disposer. Existing law specifies certain information to be included on the registration form.

This bill would additionally require every registered cremated remains disposer to post a copy of his or her current pilot's license or boating license, if cremated human remains will be scattered by air or boat, and the address of the cremated remains storage area. The bill would require the Department of Consumer Affairs to prepare and deliver to every registered cremated remains disposer a booklet, as specified. It would also permit cremated remains to be scattered or placed in areas where no local prohibition exists, would require a permit for disposition to contain the address or description of the place where remains are to be buried or scattered, and would authorize a state or local agency to adopt an ordinance, regulation, or policy authorizing or prohibiting the scattering of cremated human remains, as specified. The bill would provide that the placement or scattering of the cremated remains of more than one

person in one location pursuant to this section shall not create a cemetery pursuant to specified existing law, or any other provision of law. The bill would also require a cremated remains disposer to dispose of cremated remains within 60 days of the receipt of those remains, unless a written signed reason for a delay is presented to the person with the legal right to control the disposition of the remains, and to provide the Cemetery Program with certain names and addresses, as specified.

Existing law authorizes the burial of cremated human remains at sea.

This bill would replace references to burial at sea of cremated remains, and refer instead to scattering at sea, and include inland navigable waters, exclusive of lakes and streams, within the scope of that authorization but would exclude from that authorization the scattering of cremated human remains within 500 yards of the shoreline. The bill would provide that these provisions shall not be construed to allow the scattering of cremated human remains from a bridge or pier.

The bill would provide that certain provisions shall not become operative if AB 1314 of the 1997–98 Regular Session is chaptered and adds Section 9744.5 to the Business and Professions Code.

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

SECTION 1. Section 7685.2 of the Business and Professions Code is amended to read:

7685.2. (a) No funeral director shall enter into a contract for furnishing services or property in connection with the burial or other disposal of human remains until he or she has first submitted to the potential purchaser of those services or property a written or printed memorandum containing the following information, provided that information is available at the time of execution of the contract:

(1) The total charge for the funeral director's services and the use of his or her facilities, including the preparation of the body and other professional services, and the charge for the use of automotive and other necessary equipment.

(2) An itemization of charges for the following merchandise as selected: the casket, an outside receptacle, and clothing.

(3) An itemization of fees or charges and the total amount of cash advances made by the funeral director for transportation, flowers, cemetery or crematory charges, newspaper notices, clergy honorarium, transcripts, telegrams, long distance telephone calls, music, and any other advances as authorized by the purchaser.

(4) An itemization of any other fees or charges not included above.

(5) The total of the amount specified in paragraphs (1) to (4), inclusive.



If the charge for any of the above items is not known at the time the contract is entered into, the funeral director shall advise the purchaser of the charge therefor, within a reasonable period after the information becomes available. All prices charged for items covered under Sections 7685 and 7685.1 shall be the same as those given under such sections.

(b) A funeral director shall obtain from the person with the right to control the disposition pursuant to Section 7100 of the Health and Safety Code, or the person prearranging the cremation and disposition of his or her own remains, a signed declaration designating specific instructions with respect to the disposition of cremated remains. The department shall make available a form upon which the declaration shall be made. The form shall include, but not be limited to, the names of the persons with the right to control the disposition of the cremated remains and the person who is contracting for the cremation services; the name of the deceased; the name of the funeral director in possession of the remains; the name of the crematorium; and specific instructions regarding the manner, location, and other pertinent details regarding the disposition of cremated remains. The form shall be signed and dated by the person arranging for the cremation and the funeral director in charge of providing service.

(c) A funeral director entering into a contract to furnish cremation services shall provide to the purchaser of cremation services, either on the first page of the contract for cremation services, or on a separate page attached to the contract, a written or printed notice containing the following information:

(1) “FOR MORE INFORMATION ON CEMETERY AND CREMATION MATTERS, CONTACT: Department of Consumer Affairs; (800) 952-5210.

(2) A person having the right to control disposition of cremated remains may remove the remains in a durable container from the place of cremation or interment, pursuant to Section 7054.6 of the Health and Safety Code.

(3) If the cremated remains container cannot accommodate all cremated remains of the deceased, the crematory shall provide a larger cremated remains container at no additional cost, or place the excess in a second container that cannot easily come apart from the first, pursuant to Section 8345 of the Health and Safety Code.

SEC. 2. Section 9741 of the Business and Professions Code is amended to read:

9741. (a) Registration shall be on the form prescribed by the board and shall include, but not be limited to, the full name of the registrant, business and residence addresses, description and identification of aircraft or boats which may be used in dispensing cremated human remains, and the area to be served. Each



registration application shall be accompanied by the cremated remains disposer fee.

(b) Every registered cremated remains disposer who dispenses human remains by air shall post a copy of his or her current pilot's license, and the address of the cremated remains storage area at his or her place of business. Every registered cremated remains disposer who dispenses human remains by boat shall post a copy of his or her current boating license and the address of the cremated remains storage area at his or her place of business.

SEC. 3. Section 9740.5 is added to the Business and Professions Code, to read:

9740.5. A cremated remains disposer shall dispose of cremated remains within 60 days of the receipt of those remains, unless a written signed reason for a delay is presented to the person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code.

SEC. 4. Section 9741.1 is added to the Business and Professions Code, to read:

9741.1. The Department of Consumer Affairs shall prepare and deliver to each registered cremated remains disposer a booklet that includes, but is not limited to, the following information: details about the registration and renewal requirements for cremated remains disposers; requirements for obtaining state permits to dispose of cremated human remains; state storage requirements, if any; statutory duties pursuant to this article, and other applicable state laws.

SEC. 5. Section 9745 of the Business and Professions Code is amended to read:

9745. Each cremated remains disposer shall file, and thereafter maintain an updated copy of, an annual report on a form prescribed by the Cemetery Program. The report shall include, but not be limited to, the names of the deceased persons whose cremated remains were disposed of, the dates of receipt of the cremated remains, the names and addresses of the persons who authorized disposal of those remains, the dates and locations of disposal of those remains, and the means and manner of disposition. The report shall cover the fiscal year ending on June 30th and shall be filed with the Cemetery Program no later than September 30th of each year.

SEC. 6. Section 7010.7 of the Health and Safety Code is amended to read:

7010.7. "Scattering" means the authorized dispersal of cremated remains at sea, in other areas of the state, or commingling in a defined area within a dedicated cemetery, in accordance with this chapter.

SEC. 7. Section 7054 of the Health and Safety Code is amended to read:

7054. (a) 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.

(b) Cremated remains may be disposed of pursuant to Sections 7116, 7117, and 103060, or Sections 7054.6 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. 8. Section 7116 is added to the Health and Safety Code, to read:

7116. Cremated remains may be scattered or placed in areas where no local prohibition exists, provided that the cremated remains are not distinguishable to the public, are not in a container, and that the person who has control over disposition of the cremated remains has obtained written permission of the property owner or governing agency to scatter on the property. A state or local agency may adopt an ordinance, regulation, or policy, as appropriate, authorizing, consistent with this section, or specifically prohibiting, the scattering of cremated human remains on lands under the agency's jurisdiction. The placement or scattering of the cremated remains of more than one person in one location pursuant to this section shall not create a cemetery pursuant to Section 7003, Section 8100, or any other provision of law.

SEC. 9. Section 7117 of the Health and Safety Code is amended to read:

7117. (a) Cremated remains may be taken by boat from any harbor in this state, or by air, and scattered at sea. Cremated remains shall be removed from their container before the remains are scattered at sea.

(b) Any person who scatters at sea, either from a boat or from the air, any human cremated remains shall, file with the local registrar of births and deaths in the county nearest the point where the remains were scattered, a verified statement containing the name of the deceased person, the time and place of death, the place at which the cremated remains were scattered, and any other information that the local registrar of births and deaths may require. The first copy of the endorsed permit shall be filed with the local registrar of births and deaths within 10 days of disposition. The third copy shall be returned to the office of issuance.

(c) For purposes of this section, the phrase "at sea" includes the inland navigable waters of this state, exclusive of lakes and streams, provided that no such scattering may take place within 500 yards of the shoreline. Nothing in this section shall be construed to allow the scattering of cremated human remains from a bridge or pier.



(d) Notwithstanding any other provision of this code, the cremated remains of a deceased person may be scattered at sea as provided in this section and Section 103060.

SEC. 10. Section 103055 of the Health and Safety Code is amended to read:

103055. (a) If the certificate of death is properly executed and complete, the local registrar of births and deaths shall issue a permit for disposition, that in all cases, shall specify any one of the following:

(1) The name of the cemetery where the remains shall be interred.

(2) Burial at sea as provided in Section 7117.

(3) The address or description of the place where remains shall be buried or scattered.

(4) The address of the location where the cremated remains will be kept, as provided in Section 7054.6, under the conditions the state registrar may approve, including, but not limited to, conditions in keeping with public sensibilities, applicable laws, and reasonable assurances that the disposition will be carried out in accordance with the prescribed conditions and will not constitute a private or public nuisance.

(b) Notwithstanding any other provisions of this part relative to issuance of a permit for disposition, whenever the death occurred from a disease declared by the state department to be infectious, contagious, or communicable and dangerous to the public health, no permit for the disposition of the body shall be issued by the local registrar, except under those conditions as may be prescribed by the state department and local health officers.

SEC. 11. Section 9740.5 of the Business and Professions Code, as added by this bill, shall not become operative if AB 1314 of the 1997-98 Regular Session is enacted and becomes effective on or before January 1, 1999, and adds Section 9744.5 to the Business and Professions Code.

