

Assembly Bill No. 2279

CHAPTER 276

An act to amend Sections 9744 and 9745 of the Business and Professions Code, and to amend Section 7054.6 of the Health and Safety Code, relating to cremated human remains disposal.

[Approved by Governor August 31, 2000. Filed with Secretary of State September 1, 2000.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2279, Dutra. Cemeteries: cremated remains: licensing.

Existing law, the Cemetery Act, requires, among other things, that each cremated remains disposer provide the person authorizing the scattering of cremated human remains with a copy of the completed permit for disposition of human remains, within 60 days of the date the scattering was authorized.

This bill would instead provide that the completed permit be provided to the person with the right to control the disposition of the remains, pursuant to specified existing law, within 30 days of the date of scattering.

The existing Cemetery Act requires each cremated remains disposer to file and maintain an annual report, with specified contents, and in accordance with specified provisions.

This bill would provide that a cremated remains disposer that makes a willful and material false statement on the annual report shall be subject to disciplinary action, and shall be guilty of a misdemeanor. By creating a new crime, this bill would create a state-mandated local program.

Existing law relating to dead bodies regulates the storage and placement of cremated human remains under specified circumstances.

This bill would specify conditions for the removal, storage, and maintenance of cremated human remains by licensees and registrants under the existing Cemetery Act and Funeral Directors and Embalmers Law, and by the agents and employees of these licensees and registrants.

This bill would include provisions that would only become operative if Assembly Bill 2888 is enacted and transfers the duties of the Cemetery Program to the Cemetery and Funeral Bureau.

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 9744 of the Business and Professions Code is amended to read:

9744. Each cremated remains disposer shall provide the person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code with a copy of the completed permit for disposition of human remains pursuant to Chapter 8 (commencing with Section 103050) of Part 1 of Division 102 of the Health and Safety Code within 30 days of the date of the scattering

SEC. 2. Section 9745 of the Business and Professions Code is amended to read:

9745. (a) Each cremated remains disposer shall file, and thereafter maintain an updated copy of, an annual report on a form prescribed by the bureau. 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 bureau no later than September 30th of each year.

(b) Any cremated remains disposer that makes a willful and material false statement regarding the disposal of cremated remains in the annual report filed or updated pursuant to subdivision (a) shall be subject to disciplinary action.

(c) Any cremated remains disposer that makes a willful and material false statement in the annual report filed or updated pursuant to subdivision (a) shall be guilty of a misdemeanor.

SEC. 2.5. Section 9745 of the Business and Professions Code is amended to read:

9745. (a) 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.

(b) Any cremated remains disposer that makes a willful and material false statement regarding the disposal of cremated remains



in the annual report filed or updated pursuant to subdivision (a) shall be subject to disciplinary action.

(c) Any cremated remains disposer that makes a willful and material false statement in the annual report filed or updated pursuant to subdivision (a) shall be guilty of a misdemeanor.

SEC. 3. Section 7054.6 of the Health and Safety Code is amended to read:

7054.6. (a) Cremated remains may be removed in a durable container from the place of cremation or interment and kept in the dwelling owned or occupied by the person having the right to control disposition of the remains under Section 7100, or the durable container holding the cremated remains may be kept in a church or religious shrine, if written permission of the church or religious shrine is obtained and there is no conflict with local use permit requirements or zoning laws, if the removal is under the authority of a permit for disposition granted under Section 103060. The placement, in any place, of six or more cremated remains under this section does not constitute the place a cemetery, as defined in Section 8100.

(b) Prior to disposition of cremated remains, 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, shall do all of the following:

(1) Remove the cremated remains from the place of cremation in a durable container.

(2) Keep the cremated remains in a durable container.

(3) Store the cremated remains in a place free from exposure to the elements.

(4) Responsibly maintain the cremated remains.

SEC. 4. Section 2 of this act shall only become operative if Assembly Bill 2888 of the 1999–2000 Regular Session is enacted and transfers the duties of the Cemetery Program to the Cemetery and Funeral Bureau. In that case, Section 2.5 of this act shall not become operative.

SEC. 5. 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.

