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House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

HOUSE BILL 2637

AN ACT

AMENDING TITLE 32, CHAPTER 12, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1340; AMENDING SECTIONS 32-1361 AND 32-1390.01, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 7, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-851 AND 36-852; RELATING TO FUNERAL DIRECTORS AND EMBALMERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 32, chapter 12, article 2, Arizona Revised Statutes,
3 is amended by adding section 32-1340, to read:

4 32-1340. Storage of body or remains; licensure; definition

5 A. EXCEPT AS PROVIDED IN SUBSECTION D OF THIS SECTION, A PERSON OR
6 ENTITY SHALL BE LICENSED BY THE BOARD IF THE PERSON OR ENTITY DOES BOTH OF
7 THE FOLLOWING:

8 1. STORES A DEAD HUMAN BODY OR REMAINS OF A DEAD HUMAN BODY FOR MORE
9 THAN FIVE YEARS EVEN IF THE STORAGE BEGINS BEFORE JANUARY 1, 2005.

10 2. ACCEPTS MONIES OR ASSETS AS PAYMENT FOR THE STORAGE PRESCRIBED BY
11 PARAGRAPH 1.

12 B. A PERSON OR ENTITY THAT IS REQUIRED TO BE LICENSED PURSUANT TO THIS
13 SECTION SHALL PAY THE FEES FOR FUNERAL ESTABLISHMENT LICENSURE PRESCRIBED BY
14 SECTION 32-1309.

15 C. THE BOARD SHALL ADOPT RULES FOR THE LICENSURE AND REGULATION OF A
16 PERSON OR ENTITY DESCRIBED IN SUBSECTION A OF THIS SECTION. THE RULES SHALL
17 NOT:

18 1. DISCLOSE THE IDENTITY OF PERSONS BEING STORED, UNLESS A COURT ORDER
19 REQUIRES IT.

20 2. REQUIRE AN ENTITY TO OPEN STORAGE CONTAINERS, OR TO REMOVE THE
21 CONTENTS OF THE STORAGE CONTAINERS UNLESS A COURT ORDER REQUIRES IT.

22 3. PROHIBIT CERTAIN MATERIALS FROM BEING USED PROVIDED THAT THE
23 MATERIALS HAVE BEEN USED BEFORE THE EFFECTIVE DATE OF THIS ACT.

24 4. CHANGE METHODS OF STORING A DEAD HUMAN BODY OR REMAINS UNLESS A
25 COURT ORDER REQUIRES IT.

26 D. THIS SECTION DOES NOT APPLY TO THE FINAL DISPOSITION OF DEAD HUMAN
27 REMAINS BY BURIAL OR INTERMENT OR TO THE STORAGE OF CREMATED HUMAN REMAINS.

28 E. AN ENTITY THAT IS REQUIRED TO BE LICENSED PURSUANT TO THIS SECTION
29 SHALL NOT BE CONSIDERED AN ORGAN PROCUREMENT AGENCY OR ORGAN PROCUREMENT
30 ORGANIZATION AS DEFINED IN SECTION 36-841.

31 F. FOR THE PURPOSES OF THIS SECTION, "REMAINS" MEANS ANY ORGAN, EYE,
32 ARTERY OR OTHER PORTION OF A HUMAN BODY AND DOES NOT INCLUDE ANY BONE, TOOTH,
33 BLOOD OR ANY OTHER BODILY FLUID.

34 Sec. 2. Section 32-1361, Arizona Revised Statutes, is amended to read:

35 32-1361. Prohibition of embalming or storage by certain
36 persons; certification of embalming; definition

37 A. Only a licensed embalmer, a licensed intern, a registered
38 embalmer's assistant, a registered apprentice embalmer or a student who
39 assists a licensed embalmer in the embalming of dead human bodies pursuant to
40 section 32-1337 shall embalm a dead human body OR STORE A DEAD HUMAN BODY OR
41 REMAINS OF A DEAD HUMAN BODY FOR MORE THAN FIVE YEARS. A licensed intern,
42 registered apprentice embalmer or student may ~~only~~ embalm a dead human body
43 OR STORE A DEAD HUMAN BODY OR REMAINS OF A DEAD HUMAN BODY FOR MORE THAN FIVE
44 YEARS ONLY under the direct supervision of a licensed embalmer.

1 B. A licensed embalmer who embalms or supervises the embalming of a
2 dead human body shall certify the embalming with the embalmer's signature and
3 license number.

4 C. FOR THE PURPOSES OF THIS SECTION, "REMAINS" MEANS ANY ORGAN,
5 TISSUE, EYE, BONE, ARTERY OR OTHER PORTION OF A HUMAN BODY AND DOES NOT
6 INCLUDE BLOOD OR ANY OTHER BODILY FLUID.

7 Sec. 3. Section 32-1390.01, Arizona Revised Statutes, is amended to
8 read:

9 32-1390.01. Funeral establishments; disciplinary action; civil
10 penalty

11 A. The board may deny or refuse to renew the license of a funeral
12 establishment or may take disciplinary action against a funeral establishment
13 for any of the following reasons:

- 14 1. Fraud or misrepresentation in obtaining a license.
- 15 2. Failure to employ and designate a responsible funeral director.
- 16 3. The display or use of a funeral establishment license at any place
17 other than the establishment to which it is issued.
- 18 4. A violation of any provision of title 44, chapter 10, article 7.
- 19 5. A violation of any provision of this chapter or a rule adopted
20 pursuant to this chapter.
- 21 6. An act by an agent or an employee of a funeral establishment that
22 violates any provision of this chapter or rules adopted pursuant to this
23 chapter.

24 B. The acts or omissions of an agent or employee of a funeral
25 establishment that violate any provision of this chapter or rules adopted
26 pursuant to this chapter are considered to be the acts or omissions of the
27 funeral establishment.

28 C. If the board finds that a funeral establishment has committed an
29 offense listed in subsection A, it may take any of the following actions:

- 30 1. Issue a letter of censure or reprimand.
- 31 2. Impose probationary terms as the board considers necessary to
32 protect the public health, safety and welfare and to rehabilitate or educate
33 the licensee, including restitution to any customer or other person who was
34 injured by a violation of this chapter or A rule adopted pursuant to this
35 chapter.
- 36 3. Impose a civil penalty not to exceed three thousand dollars per
37 violation.
- 38 4. Revoke the license of the establishment pursuant to a disciplinary
39 proceeding.
- 40 5. Suspend the license for not more than ninety days for a first
41 offense or not more than one hundred eighty days for a second offense.

42 D. THE BOARD'S POWER UNDER THIS SECTION EXTENDS TO ANY PERSON OR
43 ENTITY THAT STORES A DEAD HUMAN BODY OR REMAINS OF A DEAD HUMAN BODY FOR MORE
44 THAN FIVE YEARS EVEN IF THE STORAGE BEGINS BEFORE JANUARY 1, 2005. FOR THE
45 PURPOSES OF THIS SUBSECTION, "REMAINS" MEANS ANY ORGAN, TISSUE, EYE, BONE,

1 ARTERY OR OTHER PORTION OF A HUMAN BODY AND DOES NOT INCLUDE BLOOD OR ANY
2 OTHER BODILY FLUID.

3 Sec. 4. Title 36, chapter 7, article 3, Arizona Revised Statutes, is
4 amended by adding sections 36-851 and 36-852, to read:

5 36-851. Applicability; definition

6 A. THIS ARTICLE DOES NOT APPLY TO A PERSON OR ENTITY THAT CHARGES A
7 FEE FOR THE STORAGE OF A DEAD HUMAN BODY OR REMAINS OF A DEAD HUMAN BODY FOR
8 MORE THAN FIVE YEARS.

9 B. FOR THE PURPOSES OF THIS SECTION, "REMAINS" MEANS ANY ORGAN,
10 TISSUE, EYE, BONE, ARTERY OR OTHER PORTION OF A HUMAN BODY AND DOES NOT
11 INCLUDE BLOOD OR ANY OTHER BODILY FLUID.

12 36-852. Applicability; acceptance of anatomical gifts

13 AN ENTITY THAT IS REQUIRED TO BE LICENSED PURSUANT TO THIS SECTION
14 SHALL NOT BE CONSIDERED AN ORGAN PROCUREMENT AGENCY OR ORGAN PROCUREMENT
15 ORGANIZATION AS DEFINED IN SECTION 36-841.

16 Sec. 5. Effective date

17 This act is effective from and after September 1, 2005.