

State of Arizona
House of Representatives
Fifty-first Legislature
First Regular Session
2013

HOUSE BILL 2271

AN ACT

AMENDING SECTIONS 32-1301 AND 32-1309, ARIZONA REVISED STATUTES; AMENDING TITLE 32, CHAPTER 12, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1324.01; 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. Section 32-1301, Arizona Revised Statutes, is amended to
3 read:

4 32-1301. Definitions

5 In this chapter, unless the context otherwise requires:

6 1. "Accredited" means recognized or authorized by the American board
7 of funeral service education.

8 2. "Administrative costs and expenses" means the cost of copies,
9 transcripts, court reporter and witness fees, reimbursement for mileage and
10 office of administrative hearings costs.

11 3. "Alternative container" means any unfinished wood box or other
12 nonmetal receptacle or enclosure, without ornamentation or a fixed interior
13 lining, that is designed for the encasement of human remains.

14 4. "Apprentice embalmer" means a person who is registered pursuant to
15 this chapter and who is engaged in embalming under the supervision of a
16 licensed embalmer.

17 5. "Authorizing agent" means a person who is legally entitled to order
18 the cremation, disinterment or embalming of human remains pursuant to section
19 32-1365.02.

20 6. "Beneficiary" means a person whose future funeral arrangements will
21 be handled by a funeral establishment pursuant to a prearranged funeral
22 agreement.

23 7. "Board" means the state board of funeral directors and embalmers.

24 8. "Business entity" includes any corporation, association, limited
25 liability company, professional corporation, partnership, limited
26 partnership, sole proprietorship, business trust, trust, joint venture and
27 other business entity.

28 9. "Casket" means a rigid container that is designed for the permanent
29 encasement of human remains and that is usually constructed of wood, metal or
30 synthetic substances and ornamented and lined with fabric.

31 10. "Change of ownership" means a transfer of a controlling legal or
32 equitable interest in a licensed funeral establishment or crematory resulting
33 from a sale or merger. If the establishment or crematory is operated by a
34 business entity, any transfer of the ownership of ten per cent or more of the
35 entity constitutes a change of ownership.

36 11. "Conviction" means a criminal adjudication or conviction by any
37 state or federal court of competent jurisdiction, including a judgment based
38 on a no contest plea, without regard to whether civil rights have been
39 restored.

40 12. "Cremated remains" means the remaining bone fragments after
41 cremation.

42 13. "Cremation" means the heating process that reduces human remains to
43 bone fragments by combustion and evaporation.

- 1 14. "Cremation container" means a leak and spill resistant, rigid,
2 combustible, closed receptacle into which human remains are placed before
3 cremation.
- 4 15. "Cremationist" means a person who operates a crematory retort, who
5 performs the actual cremation of human remains and who is licensed pursuant
6 to article 6 of this chapter.
- 7 16. "Crematory" means a building or portion of a building that is
8 licensed pursuant to article 6 of this chapter and that houses a retort in
9 which only human remains are cremated.
- 10 17. "Disciplinary action" means action taken by the board to revoke or
11 suspend a license or registration, to impose probationary requirements or
12 civil penalties or to issue a letter of censure or reprimand to any person
13 who is subject to this chapter and who violates any provision of this chapter
14 or rules adopted by the board.
- 15 18. "Embalmer" means a person who is licensed pursuant to this chapter
16 and who is engaged in embalming.
- 17 19. "Embalmer's assistant" means a person who is registered pursuant to
18 this chapter and who is engaged in embalming without the supervision of a
19 licensed embalmer.
- 20 20. "Embalming" means the implementation of reconstructive procedures
21 and the process of disinfecting and preserving a dead human body to retard
22 organic decomposition by treating the body to reduce the presence and growth
23 of organisms.
- 24 21. "Financial institution" means a bank, savings and loan association,
25 trust company or credit union that is lawfully doing business in this state
26 and that is not affiliated with a funeral establishment.
- 27 22. "Fixed price prearranged funeral agreement funded by trust" means
28 any agreement or combination of agreements that establishes a fixed price for
29 funeral goods and services, that requires a funeral establishment to provide
30 those funeral goods and services at the price levels in effect at the time of
31 the execution of the agreement and that requires the purchaser to convey all
32 or a portion of the accrued interest to the funeral establishment at the time
33 that the funeral goods and services are actually provided.
- 34 23. "Funded by insurance" means that monies for a prearranged funeral
35 agreement are paid directly to an insurance company licensed pursuant to
36 title 20 on behalf of the beneficiary of the agreement.
- 37 24. "Funeral directing" means arranging, directing or providing a
38 service in the disposition of dead human bodies for compensation.
- 39 25. "Funeral director" means a person who is licensed pursuant to this
40 chapter and who is engaged in funeral directing.
- 41 26. "Funeral establishment" means a business at a specific location
42 that is licensed pursuant to this chapter and that is devoted to the care,
43 storage or preparation for final disposition or transportation of dead human
44 bodies.

1 27. "Funeral goods and services" means any personal property or
2 services typically sold or provided in connection with the final disposition
3 of human remains, including caskets, alternative containers, outer burial
4 containers, cremation containers, transportation containers, funeral clothing
5 or accessories, monuments, grave markers, urns, embalming services, funeral
6 directing services and similar funeral or burial items. Funeral goods and
7 services ~~does~~ DO not include goods and services sold by cemeteries.

8 28. "Good moral character" means that a person:

9 (a) Has not been convicted of a class 1 or 2 felony by a court of
10 competent jurisdiction.

11 (b) Has not, within five years of application for licensure or
12 registration, been convicted of a felony or misdemeanor if the offense has a
13 reasonable relationship to the person's proposed area of licensure or
14 registration.

15 (c) Has not, within five years of application for licensure or
16 registration, committed any act involving dishonesty, fraud,
17 misrepresentation, breach of fiduciary duty, gross negligence or incompetence
18 if the act has a reasonable relationship to the person's proposed area of
19 licensure or registration.

20 (d) Is not currently incarcerated in or on community supervision after
21 a period of imprisonment in a local, state or federal penal institution or on
22 criminal probation.

23 (e) Has not engaged in fraud or misrepresentation in connection with
24 an application for licensure or registration under this chapter or an
25 examination required for licensure or registration.

26 (f) Has not, within five years of application for licensure or
27 registration, had a license, registration or endorsement revoked or suspended
28 by the board or by the funeral services licensing authority of any other
29 jurisdiction.

30 (g) Has not surrendered a license, registration or endorsement to the
31 board or the funeral licensing authority of any other jurisdiction in lieu of
32 disciplinary action.

33 (h) Has not practiced funeral directing or embalming without a license
34 in this state or any other jurisdiction that requires licensure to perform
35 these activities.

36 29. "Holding facility" means a designated area for the retention of
37 human remains.

38 30. "Human remains" means a lifeless human body or parts of a human
39 body that permit a reasonable inference that death occurred.

40 31. "Intern" means a person who is licensed pursuant to this chapter
41 and who is engaged in embalming under the supervision of a licensed embalmer.

42 32. "INTERN TRAINEE" MEANS A PERSON WHO INTENDS TO ENTER TRAINING AS AN
43 INTERN AND WHO IS TEMPORARILY EMPLOYED BY A FUNERAL ESTABLISHMENT.

1 ~~32.~~ 33. "License" means a written authorization that is issued by the
2 board and that entitles a person to act as a funeral director, embalmer or
3 intern or to operate a funeral establishment or crematory in this state.
4 ~~33.~~ 34. "Licensee" means a person to whom the board has issued a
5 license to act as a funeral director, embalmer or intern or to operate a
6 funeral establishment or crematory in this state.
7 ~~34.~~ 35. "Manage" means:
8 (a) For a responsible funeral director to exercise control and
9 oversight over all employees of a funeral establishment and over funeral
10 transactions, including the care of dead human bodies, funeral services and
11 activities and the documentation and retention of records.
12 (b) For a responsible cremationist to exercise control and oversight
13 over all employees of a crematory and crematory operations.
14 ~~35.~~ 36. "National board examination" means the test or tests given by
15 the conference of funeral service examining boards to determine the entry
16 level knowledge and skills of a person regarding funeral directing and
17 embalming.
18 ~~36.~~ 37. "Net interest" means interest earned on a prearranged funeral
19 trust account less applicable taxes, reasonable and necessary charges made by
20 the financial institution and the annual service fee permitted to be deducted
21 by the funeral establishment according to section 32-1391.06, subsection B.
22 ~~37.~~ 38. "Outer burial container" means a container that is designed
23 for placement in a grave around a casket, including burial vaults, grave
24 boxes and grave liners.
25 ~~38.~~ 39. "Owner" means a person who owns ten per cent or more of a
26 business entity. Owner does not include shareholders of companies who have a
27 class of common equity stock listed or authorized to be listed on the New
28 York stock exchange or the American stock exchange or listed on the NASDAQ
29 stock market.
30 ~~39.~~ 40. "Person legally responsible" means the person responsible for
31 burying a dead body as determined in section 36-831.
32 ~~40.~~ 41. "Prearranged funeral agreement" means any agreement or
33 combination of agreements under which a payment is made before the death of
34 the intended beneficiary for funeral goods and services to be delivered or
35 performed after the death of the beneficiary.
36 ~~41.~~ 42. "Prearranged funeral trust account" means a trust account that
37 is established at a financial institution and into which all monies paid on
38 behalf of a beneficiary pursuant to a prearranged funeral agreement are
39 deposited.
40 ~~42.~~ 43. "Preparation" means washing, shaving, dressing or arranging
41 hair on, applying cosmetics to or positioning bodily features on a dead human
42 body and placing a dead human body in a casket.
43 ~~43.~~ 44. "Processed cremated remains" means cremated remains after they
44 are pulverized and cleaned, leaving primarily small bone fragments.

1 ~~44.~~ 45. "Provisionally accredited" means granted candidacy status by
2 the American board of funeral service education.

3 ~~45.~~ 46. "Registration" means a written authorization that is issued by
4 the board and that entitles a person to act as an apprentice embalmer, an
5 assistant funeral director, an embalmer's assistant or a prearranged funeral
6 salesperson in this state.

7 ~~46.~~ 47. "Responsible cremationist" means a licensed cremationist who
8 manages a crematory.

9 ~~47.~~ 48. "Responsible funeral director" means a person who is licensed
10 pursuant to this chapter, who is engaged in funeral directing and who manages
11 and is accountable for a funeral establishment.

12 ~~48.~~ 49. "Retort" means an enclosed space within which cremation takes
13 place.

14 ~~49.~~ 50. "State equivalent examination" means the test or tests
15 provided by the conference of funeral service examining boards and offered by
16 the board to determine the entry level knowledge and skills of a person
17 regarding funeral directing and embalming.

18 ~~50.~~ 51. "Supervise" or "supervision" means a licensed embalmer has
19 responsibility for and is within sight and sound of a registered apprentice
20 embalmer or licensed intern who is embalming a dead human body or a student
21 who is assisting in embalming a dead human body.

22 ~~51.~~ 52. "Temporary container" means a receptacle that is usually made
23 of cardboard, rigid plastic or another similar material and that is designed
24 to hold processed cremated remains until they are placed in an urn or another
25 permanent container.

26 ~~52.~~ 53. "Trust funds" means all monies deposited on behalf of a
27 beneficiary of a prearranged funeral agreement funded by trust and all
28 accrued net interest. Trust funds shall be considered an account kept in
29 suspense until distributed to the beneficiary, the funeral establishment or
30 the estate of the beneficiary in accordance with this article.

31 ~~53.~~ 54. "Universal precautions" means the universal blood and fluid
32 precautions recommended by the centers for disease control of the United
33 States public health service to prevent the transmission of blood-borne and
34 bodily fluid-borne infectious diseases.

35 ~~54.~~ 55. "Unprofessional conduct" includes the following acts, whether
36 occurring in this state or elsewhere:

37 (a) Commission of a class 1 or 2 felony.

38 (b) Commission of a felony or misdemeanor if the offense has a
39 reasonable relationship to funeral directing or embalming. Conviction by any
40 court of competent jurisdiction or a plea of no contest is conclusive
41 evidence of the commission.

42 (c) Providing false, misleading or deceptive information on an
43 application for licensure or registration pursuant to this chapter or on an
44 examination required for licensure or registration.

1 (d) Bribing or offering to bribe, directly or indirectly, a member of
2 the board to influence the member's actions in the performance of the
3 member's duties.

4 (e) Wilfully interfering with an embalmer, funeral director or
5 cremationist who has lawful custody of a dead human body in the performance
6 of the embalmer's, funeral director's or cremationist's duty to embalm or
7 prepare the body for burial, transportation or cremation.

8 (f) Paying or causing money or other valuable consideration to be paid
9 to a person, other than an employee of a funeral establishment, to secure
10 business regulated pursuant to this chapter from or through the person.

11 (g) Violating any law of this state or any rule adopted by the
12 department of health services that relates to the embalming or preparation of
13 dead human bodies.

14 (h) Certifying falsely to having embalmed or prepared a dead human
15 body that was embalmed by a person other than a licensed embalmer making the
16 certification or an intern or apprentice embalmer under the supervision of a
17 licensed embalmer making the certification.

18 (i) Falsely advertising or labeling any service or merchandise with
19 the intention of deceiving the public.

20 (j) Shipping or delivering any merchandise or supplies that are not
21 the substantial equivalent of or superior in quality to merchandise or
22 supplies previously presented to the purchaser as samples.

23 (k) Committing any act involving dishonesty, fraud, misrepresentation,
24 breach of fiduciary duty, gross negligence or incompetence if the act has a
25 reasonable relationship to funeral directing or embalming.

26 (l) Engaging in any conduct or practice that is reasonably related to
27 funeral directing or embalming and that is or may be harmful or dangerous to
28 the health, safety or welfare of the public.

29 (m) Within a period of five years, having a license, registration or
30 endorsement suspended or revoked by the board or by the funeral services
31 licensing authority of any other jurisdiction or surrendering a license,
32 registration or endorsement in lieu of disciplinary action.

33 ~~55.~~ 56. "Urn" means a receptacle into which processed cremated remains
34 are placed for disposition.

35 Sec. 2. Section 32-1309, Arizona Revised Statutes, is amended to read:

36 32-1309. Fees

37 A. The board shall establish and collect the following application
38 fees:

- 39 1. For a funeral director license, eighty-five dollars.
- 40 2. For an embalmer license, eighty-five dollars.
- 41 3. For an embalmer's assistant registration, eighty-five dollars.
- 42 4. For an intern license, eighty-five dollars.
- 43 5. For a funeral director or embalmer license for a person who does
44 not reside in this state, eighty-five dollars.

- 1 6. For a prearranged funeral salesperson registration, eighty-five
2 dollars.
3 7. For a funeral establishment license:
4 (a) For a new establishment, new owner or new location, five hundred
5 dollars.
6 (b) For a change of name, one hundred seventy-five dollars.
7 8. For a prearranged funeral sales establishment endorsement, one
8 hundred eighty-five dollars.
9 9. For a crematory license:
10 (a) For a new crematory, new owner or new location, one hundred
11 dollars per retort.
12 (b) For a change of name, one hundred seventy-five dollars.
13 10. For a cremationist license, eighty-five dollars.
14 B. The board shall establish and collect the following examination
15 fees:
16 1. For the funeral director state laws and rules examination, eighty
17 dollars.
18 2. For the embalmer state laws and rules examination, eighty dollars.
19 3. For the prearranged funeral salesperson state laws and rules
20 examination, eighty dollars.
21 4. For the funeral service science section of the state equivalent
22 examination, one hundred fifty dollars.
23 5. For the funeral service arts section of the state equivalent
24 examination, one hundred fifty dollars.
25 C. The board shall establish and collect the following license and
26 registration issuance fees:
27 1. For a funeral director license, eighty-five dollars.
28 2. For an embalmer license, eighty-five dollars.
29 3. For an embalmer's assistant registration, eighty-five dollars.
30 4. For an intern license, eighty-five dollars.
31 5. For a prearranged funeral salesperson registration, eighty-five
32 dollars.
33 6. For a cremationist license, eighty-five dollars.
34 D. The board shall establish and collect the following renewal fees:
35 1. For a funeral director license, eighty-five dollars.
36 2. For an embalmer license, eighty-five dollars.
37 3. For an embalmer's assistant registration, eighty-five dollars.
38 4. For an intern license, eighty-five dollars.
39 5. For an apprentice embalmer registration, eighty-five dollars.
40 6. For an assistant funeral director registration, eighty-five
41 dollars.
42 7. For a prearranged funeral salesperson registration, eighty-five
43 dollars.
44 8. For an establishment license, four dollars for each disposition
45 performed by the establishment during the immediately preceding calendar

1 year. For the purposes of this paragraph, a funeral establishment performs a
2 disposition each time the establishment files a death certificate pursuant to
3 section 36-325.

4 9. For a prearranged funeral sales establishment endorsement, one
5 hundred eighty-five dollars.

6 10. For a crematory license, two hundred dollars per retort.

7 11. For a cremationist license, eighty-five dollars.

8 E. The board shall establish and collect the following fees:

9 1. For a duplicate license or registration, twenty-five dollars.

10 2. For a reexamination:

11 (a) For a state laws and rules examination, fifty dollars.

12 (b) For the funeral service science section or the funeral service
13 arts section of the state equivalent examination, sixty-five dollars.

14 3. For late renewal of a licensee or registration, thirty-five
15 dollars.

16 4. For late renewal of an establishment license or endorsement, sixty
17 dollars.

18 5. For inactive licensure or registration, twenty-five dollars.

19 6. For reinstatement of an inactive license, fifty dollars.

20 7. For reinstatement of an inactive registration, one hundred thirty
21 dollars.

22 8. For an interim funeral establishment permit, twenty-five dollars.

23 9. For filing an annual trust report, a fee of not more than two
24 hundred dollars.

25 10. For filing a late or incomplete annual trust report, a penalty of
26 not more than two hundred dollars.

27 F. THE BOARD MAY ESTABLISH AND COLLECT A FEE FOR INTERN TRAINEES IN AN
28 AMOUNT TO BE DETERMINED BY THE BOARD.

29 Sec. 3. Title 32, chapter 12, article 2, Arizona Revised Statutes, is
30 amended by adding section 32-1324.01, to read:

31 32-1324.01. Intern trainee; requirements; temporary employment
32 by funeral establishment

33 A. A FUNERAL ESTABLISHMENT MAY EMPLOY FOR A PERIOD OF NOT MORE THAN A
34 TOTAL OF ONE YEAR AN INTERN TRAINEE WHO IS ENROLLED OR INTENDS TO ENROLL IN A
35 COLLEGE OF MORTUARY SCIENCE AS A STUDENT.

36 B. AN INTERN TRAINEE WHO HAS COMPLETED AT LEAST EIGHT HOURS OF
37 TRAINING IN A BOARD-APPROVED COURSE OF STUDY THAT INCLUDES TRAINING IN
38 UNIVERSAL PRECAUTIONS MAY DO THE FOLLOWING:

39 1. ASSIST IN THE PREPARATION OF HUMAN REMAINS.

40 2. ASSIST WITH AN EMBALMING AT THE FUNERAL ESTABLISHMENT IF THE INTERN
41 TRAINEE IS UNDER THE DIRECT PERSONAL SUPERVISION OF AN EMBALMER AT ALL TIMES.

42 3. EXCEPT AS OTHERWISE PROVIDED IN THIS SECTION, PERFORM ALL OTHER
43 FUNCTIONS OF A LICENSED INTERN UNDER THE SUPERVISION OF AN EMBALMER OR A
44 FUNERAL DIRECTOR.

- 1 C. AN INTERN TRAINEE SHALL BE OF GOOD MORAL CHARACTER AND IS NOT
- 2 REQUIRED TO BE REGISTERED OR LICENSED BY THE BOARD.
- 3 D. A FUNERAL ESTABLISHMENT THAT EMPLOYS AN INTERN TRAINEE SHALL SUBMIT
- 4 ALL OF THE FOLLOWING TO THE BOARD:
- 5 1. THE NAME AND ADDRESS OF THE INTERN TRAINEE AND OTHER INFORMATION
- 6 THAT THE BOARD REQUIRES.
- 7 2. A COMPLETED FINGERPRINT CARD AND THE PRESCRIBED FINGERPRINT
- 8 BACKGROUND CHECK FEE FOR ANY PERSON EMPLOYED AS AN INTERN TRAINEE.
- 9 E. THE FUNERAL ESTABLISHMENT SHALL REPORT TO THE BOARD THE TERMINATION
- 10 OF EMPLOYMENT OF THE INTERN TRAINEE.