

State of Arizona  
Senate  
Fifty-first Legislature  
First Regular Session  
2013

# SENATE BILL 1342

AN ACT

AMENDING SECTIONS 32-1301 AND 32-1309, ARIZONA REVISED STATUTES; REPEALING SECTION 32-1324, ARIZONA REVISED STATUTES; AMENDING SECTIONS 32-1325.01, 32-1330, 32-1331, 32-1333 AND 32-1361, ARIZONA REVISED STATUTES; 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.~~ 4. "Authorizing agent" means a person who is legally entitled to  
18 order the cremation, disinterment or embalming of human remains pursuant to  
19 section 32-1365.02.

20 ~~6.~~ 5. "Beneficiary" means a person whose future funeral arrangements  
21 will be handled by a funeral establishment pursuant to a prearranged funeral  
22 agreement.

23 ~~7.~~ 6. "Board" means the state board of funeral directors and  
24 embalmers.

25 ~~8.~~ 7. "Business entity" includes any corporation, association,  
26 limited liability company, professional corporation, partnership, limited  
27 partnership, sole proprietorship, business trust, trust, joint venture and  
28 other business entity.

29 ~~9.~~ 8. "Casket" means a rigid container that is designed for the  
30 permanent encasement of human remains and that is usually constructed of  
31 wood, metal or synthetic substances and ornamented and lined with fabric.

32 ~~10.~~ 9. "Change of ownership" means a transfer of a controlling legal  
33 or equitable interest in a licensed funeral establishment or crematory  
34 resulting from a sale or merger. If the establishment or crematory is  
35 operated by a business entity, any transfer of the ownership of ten per cent  
36 or more of the entity constitutes a change of ownership.

37 ~~11.~~ 10. "Conviction" means a criminal adjudication or conviction by  
38 any state or federal court of competent jurisdiction, including a judgment  
39 based on a no contest plea, without regard to whether civil rights have been  
40 restored.

41 ~~12.~~ 11. "Cremated remains" means the remaining bone fragments after  
42 cremation.

43 ~~13.~~ 12. "Cremation" means the heating process that reduces human  
44 remains to bone fragments by combustion and evaporation.

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

1           ~~27.~~ 26. "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.~~ 27. "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.~~ 28. "Holding facility" means a designated area for the retention  
37 of human remains.

38           ~~30.~~ 29. "Human remains" means a lifeless human body or parts of a  
39 human body that permit a reasonable inference that death occurred.

40           ~~31.~~ 30. "Intern" means a person who is licensed pursuant to this  
41 chapter and who is engaged in embalming under the supervision of a licensed  
42 embalmer.

43           ~~32.~~ 31. "License" means a written authorization that is issued by the  
44 board and that entitles a person to act as a funeral director, embalmer or  
45 intern or to operate a funeral establishment or crematory in this state.

1           ~~33.~~ 32. "Licensee" means a person to whom the board has issued a  
2 license to act as a funeral director, embalmer or intern or to operate a  
3 funeral establishment or crematory in this state.

4           ~~34.~~ 33. "Manage" means:

5           (a) For a responsible funeral director to exercise control and  
6 oversight over all employees of a funeral establishment and over funeral  
7 transactions, including the care of dead human bodies, funeral services and  
8 activities and the documentation and retention of records.

9           (b) For a responsible cremationist to exercise control and oversight  
10 over all employees of a crematory and crematory operations.

11           ~~35.~~ 34. "National board examination" means the test or tests given by  
12 the conference of funeral service examining boards to determine the entry  
13 level knowledge and skills of a person regarding funeral directing and  
14 embalming.

15           ~~36.~~ 35. "Net interest" means interest earned on a prearranged funeral  
16 trust account less applicable taxes, reasonable and necessary charges made by  
17 the financial institution and the annual service fee permitted to be deducted  
18 by the funeral establishment according to section 32-1391.06, subsection B.

19           ~~37.~~ 36. "Outer burial container" means a container that is designed  
20 for placement in a grave around a casket, including burial vaults, grave  
21 boxes and grave liners.

22           ~~38.~~ 37. "Owner" means a person who owns ten per cent or more of a  
23 business entity. Owner does not include shareholders of companies who have a  
24 class of common equity stock listed or authorized to be listed on the New  
25 York stock exchange or the American stock exchange or listed on the NASDAQ  
26 stock market.

27           ~~39.~~ 38. "Person legally responsible" means the person responsible for  
28 burying a dead body as determined in section 36-831.

29           ~~40.~~ 39. "Prearranged funeral agreement" means any agreement or  
30 combination of agreements under which a payment is made before the death of  
31 the intended beneficiary for funeral goods and services to be delivered or  
32 performed after the death of the beneficiary.

33           ~~41.~~ 40. "Prearranged funeral trust account" means a trust account that  
34 is established at a financial institution and into which all monies paid on  
35 behalf of a beneficiary pursuant to a prearranged funeral agreement are  
36 deposited.

37           ~~42.~~ 41. "Preparation" means washing, shaving, dressing or arranging  
38 hair on, applying cosmetics to or positioning bodily features on a dead human  
39 body and placing a dead human body in a casket.

40           ~~43.~~ 42. "Processed cremated remains" means cremated remains after they  
41 are pulverized and cleaned, leaving primarily small bone fragments.

42           ~~44.~~ 43. "Provisionally accredited" means granted candidacy status by  
43 the American board of funeral service education.

44           ~~45.~~ 44. "Registration" means a written authorization that is issued by  
45 the board and that entitles a person to act as ~~an apprentice embalmer,~~ an

1 assistant funeral director, an embalmer's assistant or a prearranged funeral  
2 salesperson in this state.

3 ~~46.~~ 45. "Responsible cremationist" means a licensed cremationist who  
4 manages a crematory.

5 ~~47.~~ 46. "Responsible funeral director" means a person who is licensed  
6 pursuant to this chapter, who is engaged in funeral directing and who manages  
7 and is accountable for a funeral establishment.

8 ~~48.~~ 47. "Retort" means an enclosed space within which cremation takes  
9 place.

10 ~~49.~~ 48. "State equivalent examination" means the test or tests  
11 provided by the conference of funeral service examining boards and offered by  
12 the board to determine the entry level knowledge and skills of a person  
13 regarding funeral directing and embalming.

14 ~~50.~~ 49. "Supervise" or "supervision" means a licensed embalmer has  
15 responsibility for and is within sight and sound of a ~~registered-apprentice~~  
16 ~~embalmer-or~~ licensed intern who is embalming a dead human body or a student  
17 who is assisting in embalming a dead human body.

18 ~~51.~~ 50. "Temporary container" means a receptacle that is usually made  
19 of cardboard, rigid plastic or another similar material and that is designed  
20 to hold processed cremated remains until they are placed in an urn or another  
21 permanent container.

22 ~~52.~~ 51. "Trust funds" means all monies deposited on behalf of a  
23 beneficiary of a prearranged funeral agreement funded by trust and all  
24 accrued net interest. Trust funds shall be considered an account kept in  
25 suspense until distributed to the beneficiary, the funeral establishment or  
26 the estate of the beneficiary in accordance with this article.

27 ~~53.~~ 52. "Universal precautions" means the universal blood and fluid  
28 precautions recommended by the centers for disease control of the United  
29 States public health service to prevent the transmission of blood-borne and  
30 bodily fluid-borne infectious diseases.

31 ~~54.~~ 53. "Unprofessional conduct" includes the following acts, whether  
32 occurring in this state or elsewhere:

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

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

38 (c) Providing false, misleading or deceptive information on an  
39 application for licensure or registration pursuant to this chapter or on an  
40 examination required for licensure or registration.

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

44 (e) Wilfully interfering with an embalmer, funeral director or  
45 cremationist who has lawful custody of a dead human body in the performance

1 of the embalmer's, funeral director's or cremationist's duty to embalm or  
2 prepare the body for burial, transportation or cremation.

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

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

9 (h) Certifying falsely to having embalmed or prepared a dead human  
10 body that was embalmed by a person other than a licensed embalmer making the  
11 certification or an intern ~~or apprentice embalmer~~ under the supervision of a  
12 licensed embalmer making the certification.

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

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

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

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

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

28 ~~55-~~ 54. "Urn" means a receptacle into which processed cremated remains  
29 are placed for disposition.

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

31 32-1309. Fees

32 A. The board shall establish and collect the following application  
33 fees:

- 34 1. For a funeral director license, eighty-five dollars.
- 35 2. For an embalmer license, eighty-five dollars.
- 36 3. For an embalmer's assistant registration, eighty-five dollars.
- 37 4. For an intern license, eighty-five dollars.
- 38 5. For a funeral director or embalmer license for a person who does  
39 not reside in this state, eighty-five dollars.
- 40 6. For a prearranged funeral salesperson registration, eighty-five  
41 dollars.
- 42 7. For a funeral establishment license:
  - 43 (a) For a new establishment, new owner or new location, five hundred  
44 dollars.
  - 45 (b) For a change of name, one hundred seventy-five dollars.

- 1           8. For a prearranged funeral sales establishment endorsement, one  
2 hundred eighty-five dollars.
- 3           9. For a crematory license:
- 4           (a) For a new crematory, new owner or new location, one hundred  
5 dollars per retort.
- 6           (b) For a change of name, one hundred seventy-five dollars.
- 7           10. For a cremationist license, eighty-five dollars.
- 8           B. The board shall establish and collect the following examination  
9 fees:
- 10           1. For the funeral director state laws and rules examination, eighty  
11 dollars.
- 12           2. For the embalmer state laws and rules examination, eighty dollars.
- 13           3. For the prearranged funeral salesperson state laws and rules  
14 examination, eighty dollars.
- 15           4. For the funeral service science section of the state equivalent  
16 examination, one hundred fifty dollars.
- 17           5. For the funeral service arts section of the state equivalent  
18 examination, one hundred fifty dollars.
- 19           C. The board shall establish and collect the following license and  
20 registration issuance fees:
- 21           1. For a funeral director license, eighty-five dollars.
- 22           2. For an embalmer license, eighty-five dollars.
- 23           3. For an embalmer's assistant registration, eighty-five dollars.
- 24           4. For an intern license, eighty-five dollars.
- 25           5. For a prearranged funeral salesperson registration, eighty-five  
26 dollars.
- 27           6. For a cremationist license, eighty-five dollars.
- 28           D. The board shall establish and collect the following renewal fees:
- 29           1. For a funeral director license, eighty-five dollars.
- 30           2. For an embalmer license, eighty-five dollars.
- 31           3. For an embalmer's assistant registration, eighty-five dollars.
- 32           4. For an intern license, eighty-five dollars.
- 33           ~~5. For an apprentice embalmer registration, eighty-five dollars.~~
- 34           ~~6.~~ 5. For an assistant funeral director registration, eighty-five  
35 dollars.
- 36           ~~7.~~ 6. For a prearranged funeral salesperson registration, eighty-five  
37 dollars.
- 38           ~~8.~~ 7. For an establishment license, four dollars for each disposition  
39 performed by the establishment during the immediately preceding calendar  
40 year. For the purposes of this paragraph, a funeral establishment performs a  
41 disposition each time the establishment files a death certificate pursuant to  
42 section 36-325.
- 43           ~~9.~~ 8. For a prearranged funeral sales establishment endorsement, one  
44 hundred eighty-five dollars.
- 45           ~~10.~~ 9. For a crematory license, two hundred dollars per retort.

- 1       ~~11.~~ 10. For a cremationist license, eighty-five dollars.  
2       E. The board shall establish and collect the following fees:  
3       1. For a duplicate license or registration, twenty-five dollars.  
4       2. For a reexamination:  
5       (a) For a state laws and rules examination, fifty dollars.  
6       (b) For the funeral service science section or the funeral service  
7 arts section of the state equivalent examination, sixty-five dollars.  
8       3. For late renewal of a licensee or registration, thirty-five  
9 dollars.  
10      4. For late renewal of an establishment license or endorsement, sixty  
11 dollars.  
12      5. For inactive licensure or registration, twenty-five dollars.  
13      6. For reinstatement of an inactive license, fifty dollars.  
14      7. For reinstatement of an inactive registration, one hundred thirty  
15 dollars.  
16      8. For an interim funeral establishment permit, twenty-five dollars.  
17      9. For filing an annual trust report, a fee of not more than two  
18 hundred dollars.  
19      10. For filing a late or incomplete annual trust report, a penalty of  
20 not more than two hundred dollars.  
21      Sec. 3. Repeal  
22      Section 32-1324, Arizona Revised Statutes, is repealed.  
23      Sec. 4. Section 32-1325.01, Arizona Revised Statutes, is amended to  
24 read:  
25      32-1325.01. Embalmer's assistants: qualifications: application  
26           for registration  
27      A. An applicant for registration as an embalmer's assistant shall:  
28      ~~1. Have been registered as an apprentice embalmer for at least five~~  
29 ~~continuous years.~~  
30      ~~2.~~ 1. Not have had any disciplinary action taken against the person's  
31 registration by the board within the last five years.  
32      ~~3.~~ 2. Pass a practical examination demonstrating the person's  
33 competence in embalming and safety procedures.  
34      B. An applicant for registration as an embalmer's assistant shall  
35 submit a completed application on a form prescribed by the board. The  
36 application shall be subscribed under oath and shall be accompanied by:  
37      1. Any educational, professional and employment information required  
38 by the board in its rules.  
39      ~~2. Proof of the applicant's employment as an apprentice embalmer at an~~  
40 ~~establishment licensed under article 4 of this chapter under the supervision~~  
41 ~~of an embalmer licensed under this article.~~  
42      ~~3.~~ 2. A completed fingerprint card and the prescribed fingerprint  
43 background check fee.  
44      ~~4.~~ 3. Any other information required by the board.  
45      ~~5.~~ 4. All applicable fees pursuant to section 32-1309.

1 C. If the board finds that the applicant meets the criteria for  
2 registration under this article and rules adopted by the board, the board  
3 shall issue an embalmer's assistant registration.

4 Sec. 5. Section 32-1330, Arizona Revised Statutes, is amended to read:  
5 32-1330. Annual intern or embalmer assistant report

6 A person who is registered as an ~~apprentice-embalmer-or~~ embalmer's  
7 assistant or licensed as an intern shall submit to the board, at the time  
8 that the person applies to renew the person's registration or license, an  
9 annual report on a form prescribed by the board. The report shall be  
10 subscribed under oath by the ~~apprentice-embalmer~~ EMBALMER'S ASSISTANT or  
11 intern and the supervising embalmer and shall contain information documenting  
12 each embalming that the ~~apprentice-embalmer~~ EMBALMER'S ASSISTANT or intern  
13 assisted in or performed.

14 Sec. 6. Section 32-1331, Arizona Revised Statutes, is amended to read:  
15 32-1331. Renewal of licenses and registration; reinstatement of  
16 registration

17 A. Except as provided in section 32-4301, each license and each  
18 registration issued under this article expires on August 1 of each year.

19 B. A licensee or a registrant shall submit a renewal application and  
20 the applicable renewal fee pursuant to section 32-1309 on or before July 1 of  
21 each year. A license or registration renewal fee is nonrefundable.

22 C. A licensee or a registrant who submits a renewal application and  
23 the applicable renewal fee after July 1 but before August 1 shall pay a late  
24 fee pursuant to section 32-1309 in addition to the renewal fee.

25 D. A licensee who fails to submit a renewal application and the  
26 applicable fee on or before August 1 shall apply for licensure as an original  
27 applicant. A person who submits a license application within three years  
28 after the date that the person's license expires is not required to pass the  
29 national board examination or state equivalent examination.

30 E. A registered assistant funeral director who fails to submit a  
31 renewal application and the applicable renewal fee on or before August 1:

- 32 1. Is not eligible for renewal of the person's registration.
- 33 2. May apply for a funeral director license pursuant to this article.

34 F. An ~~apprentice-embalmer-or~~ embalmer's assistant who fails to submit  
35 a renewal application and the applicable renewal fee on or before August 1  
36 may apply for reinstatement of the person's registration by submitting a  
37 completed reinstatement application on a form prescribed by the board and the  
38 applicable reinstatement fee within one year after the date that the person's  
39 registration expires.

40 G. An intern license may not be renewed more than three times.

41 Sec. 7. Section 32-1333, Arizona Revised Statutes, is amended to read:  
42 32-1333. Notice of change in employment

43 A. An intern who is licensed or an ~~apprentice-embalmer-or~~ embalmer's  
44 assistant who is registered under this article shall notify the board in  
45 writing within ten business days after a change in employment. The notice

1 shall include the names of the new establishment and, if applicable, the new  
2 supervising licensed funeral director or embalmer.

3 B. An embalmer or funeral director who is licensed under this article  
4 shall notify the board in writing within ten business days after a change in  
5 employment. The notice shall include the names of the former and the new  
6 establishment.

7 C. A responsible funeral director who is licensed under this article  
8 shall notify the board in writing within five business days after a change in  
9 employment, excluding Saturdays, Sundays and other legal holidays.

10 Sec. 8. Section 32-1361, Arizona Revised Statutes, is amended to read:

11 32-1361. Prohibition of embalming by certain persons;  
12 certification of embalming

13 A. Only a licensed embalmer, a licensed intern, a registered  
14 embalmer's assistant, ~~a registered apprentice embalmer~~ or a student who  
15 assists a licensed embalmer in the embalming of dead human bodies pursuant to  
16 section 32-1337 shall embalm a dead human body. A licensed intern, ~~—~~  
17 ~~registered apprentice embalmer~~ or student may only embalm a dead human body  
18 under the direct supervision of a licensed embalmer.

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