

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 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.