

State of Arizona
Senate
Fifty-fourth Legislature
Second Regular Session
2020

SENATE BILL 1136

AN ACT

AMENDING SECTIONS 32-1301, 32-1307, 32-1322, 32-1324 AND 32-1394.01,
ARIZONA REVISED STATUTES; RELATING TO FUNERAL DIRECTORS, EMBALMERS AND
CREMATIONISTS.

(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
7 board 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
10 and 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
13 interior lining, that is designed for the encasement of human remains.

14 4. "Authorizing agent" means a person who is legally entitled to
15 order the cremation, disinterment or embalming of human remains pursuant
16 to section 32-1365.02.

17 5. "Beneficiary" means a person whose future funeral arrangements
18 will be handled by a funeral establishment pursuant to a prearranged
19 funeral agreement.

20 6. "Board" means the state board of funeral directors and
21 embalmers.

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

26 8. "Casket" means a rigid container that is designed to permanently
27 encase human remains and that is usually constructed of wood, metal or
28 synthetic substances and ornamented and lined with fabric.

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

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

38 11. "Cremated remains" means the remaining bone fragments after
39 cremation.

40 12. "Cremation" means the heating process that reduces human
41 remains to bone fragments by combustion and evaporation.

42 13. "Cremation container" means a leak and spill resistant, rigid,
43 combustible, closed receptacle into which human remains are placed before
44 cremation.

1 14. "Cremationist" means a person who operates a crematory retort,
2 who performs the actual cremation of human remains and who may be licensed
3 pursuant to article 6 of this chapter.

4 15. "Crematory" means a building or portion of a building that is
5 licensed pursuant to article 6 of this chapter and that houses a retort in
6 which only human remains are cremated.

7 16. "Disciplinary action" means an action taken by the board to
8 revoke or suspend a license or registration, to impose probationary
9 requirements or civil penalties or to issue a letter of censure or
10 reprimand to any person who is subject to this chapter and who violates
11 any provision of this chapter or rules adopted by the board.

12 17. "Embalmer" means a person who is licensed pursuant to this
13 chapter and who is engaged in embalming.

14 18. "Embalmer's assistant" means a person who is registered
15 pursuant to this chapter and who is engaged in embalming without the
16 supervision of a licensed embalmer.

17 19. "Embalming" means the implementation of reconstructive
18 procedures and the process of disinfecting and preserving a dead human
19 body to retard organic decomposition by treating the body to reduce the
20 presence and growth of organisms.

21 20. "Financial institution" means a bank, savings and loan
22 association, trust company or credit union that is lawfully doing business
23 in this state and that is not affiliated with a funeral establishment.

24 21. "Fixed price prearranged funeral agreement funded by trust"
25 means any agreement or combination of agreements that establishes a fixed
26 price for funeral goods and services, that requires a funeral
27 establishment to provide those funeral goods and services at the price
28 levels in effect at the time of the execution of the agreement and that
29 requires the purchaser to convey all or a portion of the accrued interest
30 to the funeral establishment at the time that the funeral goods and
31 services are actually provided.

32 22. "Funded by insurance" means that monies for a prearranged
33 funeral agreement are paid directly to an insurance company licensed
34 pursuant to title 20 on behalf of the beneficiary of the agreement.

35 23. "Funeral directing" means arranging, directing or providing a
36 service in the disposition of dead human bodies for compensation.

37 24. "Funeral director" means a person who is licensed pursuant to
38 this chapter and who is engaged in funeral directing.

39 25. "Funeral establishment" means a business at a specific location
40 that is licensed pursuant to this chapter and that is devoted to the care,
41 storage or preparation for final disposition or transportation of dead
42 human bodies.

43 26. "Funeral goods and services" means any personal property or
44 services that are typically sold or provided in connection with the final
45 disposition of human remains, including caskets, alternative containers,
46 outer burial containers, cremation containers, transportation containers,

1 funeral clothing or accessories, monuments, grave markers, urns, embalming
2 services, funeral directing services and similar funeral or burial items.
3 Funeral goods and services do not include goods and services sold by
4 cemeteries.

5 27. "Good moral character" means that a person:

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

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

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

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

20 (e) Has not engaged in fraud or misrepresentation in connection
21 with an application for licensure or registration under this chapter or an
22 examination required for licensure or registration.

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

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

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

33 28. "Holding facility" means a designated area for the retention of
34 human remains.

35 29. "Human remains" means a lifeless human body or parts of a human
36 body that allow a reasonable inference that death occurred.

37 30. "Intern" means a person who is licensed pursuant to this
38 chapter and who is engaged in either or both of the following:

39 (a) Embalming under the supervision of a licensed embalmer.

40 (b) Arranging and directing funerals under the supervision of a
41 licensed funeral director.

42 31. "Intern trainee" means a person who intends to enter training
43 as an intern and who is temporarily employed by a funeral establishment.

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

1 33. "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. "Manage" means:

5 (a) That a responsible funeral director exercises 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
8 and activities and the documentation and retention of records.

9 (b) That a responsible cremationist exercises control and oversight
10 over all employees of a crematory and crematory operations.

11 35. "MENTOR" MEANS EITHER:

12 (a) A FUNERAL DIRECTOR OR EMBALMER WHO IS APPROVED BY THE BOARD TO
13 TRAIN A PERSON IN A DEPARTMENT OF ECONOMIC SECURITY-APPROVED
14 APPRENTICESHIP PROGRAM IN FUNERAL DIRECTING AND EMBALMING IN A FUNERAL
15 ESTABLISHMENT LICENSED BY THE BOARD.

16 (b) A CREMATIONIST WHO IS APPROVED BY THE BOARD TO TRAIN A PERSON
17 IN A DEPARTMENT OF ECONOMIC SECURITY-APPROVED APPRENTICESHIP PROGRAM IN
18 CREMATION IN A CREMATORY LICENSED BY THE BOARD.

19 ~~35.~~ 36. "National board examination" means the test or tests given
20 by the conference of funeral service examining boards to determine the
21 entry level knowledge and skills of a person regarding funeral directing
22 and embalming.

23 ~~36.~~ 37. "Net interest" means interest earned on a prearranged
24 funeral trust account minus applicable taxes, reasonable and necessary
25 charges made by the financial institution and the annual service fee
26 allowed to be deducted by the funeral establishment according to section
27 32-1391.06, subsection B.

28 ~~37.~~ 38. "Outer burial container" means a container that is
29 designed for placement in a grave around a casket, including burial
30 vaults, grave boxes and grave liners.

31 ~~38.~~ 39. "Owner" means a person who owns ten percent or more of a
32 business entity. Owner does not include shareholders of companies who
33 have a class of common equity stock listed or authorized to be listed on
34 the New York stock exchange or the American stock exchange or listed on
35 the NASDAQ stock market.

36 ~~39.~~ 40. "Person legally responsible" means the person responsible
37 for burying a dead body as determined in section 36-831.

38 ~~40.~~ 41. "Prearranged funeral agreement" means any agreement or
39 combination of agreements under which a payment is made before the death
40 of the intended beneficiary for funeral goods and services to be delivered
41 or performed after the death of the beneficiary.

42 ~~41.~~ 42. "Prearranged funeral trust account" means a trust account
43 that is established at a financial institution and into which all monies
44 paid on behalf of a beneficiary pursuant to a prearranged funeral
45 agreement are deposited.

1 ~~42.~~ 43. "Preparation" means washing, shaving, dressing or
2 arranging hair on, applying cosmetics to or positioning bodily features on
3 a dead human body and placing THE dead human body in a casket.

4 ~~43.~~ 44. "Processed cremated remains" means cremated remains after
5 they are pulverized and cleaned, leaving primarily small bone fragments.

6 ~~44.~~ 45. "Provisionally accredited" means granted candidacy status
7 by the American board of funeral service education.

8 ~~45.~~ 46. "Registration" means a written authorization that is
9 issued by the board and that entitles a person to act as an assistant
10 funeral director, an embalmer's assistant or a prearranged funeral
11 salesperson in this state.

12 ~~46.~~ 47. "Responsible cremationist" means a licensed cremationist
13 who manages a crematory.

14 ~~47.~~ 48. "Responsible funeral director" means a person who is
15 licensed pursuant to this chapter, who is engaged in funeral directing and
16 who manages and is accountable for a funeral establishment.

17 ~~48.~~ 49. "Retort" means an enclosed space within which cremation
18 takes place.

19 ~~49.~~ 50. "State equivalent examination" means the test or tests
20 that are provided by the conference of funeral service examining boards
21 and offered by the board to determine the entry level knowledge and skills
22 of a person regarding funeral directing and embalming.

23 ~~50.~~ 51. "Supervise" or "supervision" means that a licensed
24 embalmer has responsibility for and is within sight and sound of a
25 licensed intern who is embalming a dead human body or a student who is
26 assisting in embalming a dead human body.

27 ~~51.~~ 52. "Temporary container" means a receptacle that is usually
28 made of cardboard, rigid plastic or another similar material and that is
29 designed to hold processed cremated remains until they are placed in an
30 urn or another permanent container.

31 ~~52.~~ 53. "Trust funds" means all monies that are deposited on
32 behalf of a beneficiary of a prearranged funeral agreement funded by trust
33 and all accrued net interest. Trust funds shall be considered an account
34 kept in suspense until distributed to the beneficiary, the funeral
35 establishment or the estate of the beneficiary in accordance with this
36 article.

37 ~~53.~~ 54. "Universal precautions" means the universal blood and
38 fluid precautions recommended by the centers for disease control of the
39 United States public health service to prevent the transmission of
40 bloodborne and bodily fluid-borne infectious diseases.

41 ~~54.~~ 55. "Unprofessional conduct" includes the following acts,
42 whether occurring in this state or elsewhere:

43 (a) Committing a class 1 or 2 felony.

44 (b) Committing a felony or misdemeanor if the offense has a
45 reasonable relationship to funeral directing or embalming. Conviction by

1 any court of competent jurisdiction or a plea of no contest is conclusive
2 evidence of the commission.

3 (c) Providing false, misleading or deceptive information on an
4 application for licensure or registration pursuant to this chapter or on
5 an examination required for licensure or registration.

6 (d) Bribing or offering to bribe, directly or indirectly, a member
7 of the board to influence the member's actions in performing the member's
8 duties.

9 (e) Wilfully interfering with an embalmer, funeral director or
10 cremationist who has lawful custody of a dead human body in performing the
11 embalmer's, funeral director's or cremationist's duty to embalm or prepare
12 the body for burial, transportation or cremation.

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

17 (g) Violating any law of this state or any rule adopted by the
18 department of health services that relates to embalming or preparing dead
19 human bodies.

20 (h) Certifying falsely to having embalmed or prepared a dead human
21 body that was embalmed by a person other than a licensed embalmer making
22 the certification or an intern under the supervision of a licensed
23 embalmer making the certification.

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

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

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

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

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

40 ~~55.~~ 56. "Urn" means a receptacle into which processed cremated
41 remains are placed for disposition.

42 Sec. 2. Section 32-1307, Arizona Revised Statutes, is amended to
43 read:

44 32-1307. Powers and duties of board

45 A. The board shall:

- 1 1. Administer and enforce this chapter and the rules adopted
2 pursuant to this chapter.
- 3 2. Adopt a seal.
- 4 3. Maintain a record of the name and the mailing or employer's
5 business address of each licensee and registrant.
- 6 4. Investigate alleged violations of this chapter and the rules
7 adopted pursuant to this chapter.
- 8 5. Adopt rules in accordance with title 41, chapter 6. Rules
9 adopted by the board shall include provisions relating to the following:
10 (a) The keeping and disposition of records by licensees and
11 registrants.
12 (b) Standards of practice, professional conduct, competence and
13 consumer disclosure relating to owning or operating a funeral
14 establishment or crematory, funeral directing, embalming and cremation.
15 (c) The prohibition of deceptive, misleading or professionally
16 negligent practices in advertising, offering or selling funeral goods or
17 services by funeral establishments, crematories, licensees and registrants
18 and agents of funeral establishments, crematories, licensees and
19 registrants. The rules shall specifically prohibit misrepresentation of
20 the legal requirements concerning the preparation and interment of dead
21 human bodies.
22 (d) Standard price disclosure formats and price list requirements
23 and definitions to facilitate price comparisons by members of the public.
24 (e) Guidelines to enable members of the public to determine the
25 substantial equivalency of funeral goods available for sale to the public.
26 (f) Administrative and investigative procedures.
27 (g) The efficient administration of the board's affairs and the
28 enforcement of the provisions of this chapter.
29 (h) The inspection of all funeral establishments and crematories at
30 least once every five years.
31 (i) Any other matters the board deems necessary to carry out the
32 provisions of this chapter.
- 33 6. APPROVE A FUNERAL DIRECTOR, EMBALMER OR CREMATIONIST AS A MENTOR
34 BASED ON THE FUNERAL DIRECTOR'S, EMBALMER'S OR CREMATIONIST'S RECORD OF
35 COMPLIANCE WITH THIS CHAPTER. THE BOARD MAY NOT CONDITION THE APPROVAL ON
36 THE PAYMENT OF AN ADDITIONAL FEE OR COMPLETION OF AN ADDITIONAL
37 REQUIREMENT.
- 38 B. The board may:
 - 39 1. Subject to title 41, chapter 4, article 4, employ investigative,
40 professional and clerical employees as it deems necessary to carry out
41 this chapter. Compensation of these employees shall be determined
42 pursuant to section 38-611.
 - 43 2. Appoint citizen advisory committees to make recommendations to
44 the board concerning enforcement and the administration of this chapter.
 - 45 3. In connection with investigations or administrative hearings,
46 issue subpoenas to compel the attendance of witnesses and the production

1 of books, papers, contracts, agreements and other documents or records in
2 any form, administer oaths and take testimony and evidence concerning all
3 matters within its jurisdiction. The board may pay the fees and expenses
4 of witnesses who appear in any proceeding before the board. If a person
5 refuses to obey a subpoena issued by the board, the board may invoke the
6 aid of any court in this state to require the attendance and testimony of
7 witnesses and the production of documentary evidence.

8 4. Contract with other state and federal agencies as it deems
9 necessary to carry out this chapter.

10 5. Charge reasonable fees for the distribution of materials that
11 the board prints or has printed at its expense and for the costs of
12 mailing these materials.

13 6. Charge the reasonable costs of a fingerprint background check to
14 an applicant for licensure or registration.

15 Sec. 3. Section 32-1322, Arizona Revised Statutes, is amended to
16 read:

17 32-1322. Interns, embalmers and funeral directors;
18 qualifications for licensure

19 A. An applicant for licensure as an intern shall:

20 1. Hold a high school diploma or its equivalent.

21 2. MEET EITHER OF THE FOLLOWING:

22 (a) Be a graduate of an accredited or provisionally accredited
23 school of mortuary science.

24 (b) COMPLETE A UNITED STATES DEPARTMENT OF LABOR-APPROVED
25 APPRENTICESHIP PROGRAM OR A DEPARTMENT OF ECONOMIC SECURITY-APPROVED
26 APPRENTICESHIP PROGRAM IN FUNERAL DIRECTING AND EMBALMING.

27 3. Be of good moral character.

28 B. An applicant for licensure as an embalmer shall:

29 1. Pass the funeral service science section of the national board
30 examination or the state equivalent examination.

31 2. Pass the embalmer state laws and rules examination.

32 3. Be of good moral character.

33 4. Have been licensed as an intern for at least one year.

34 5. Have successfully completed an internship program that included
35 assisting in embalming at least twenty-five dead human bodies.

36 C. An applicant for licensure as a funeral director shall:

37 1. Pass the funeral service arts section of the national board
38 examination or the state equivalent examination.

39 2. Pass the funeral director state laws and rules examination.

40 3. Be of good moral character.

41 4. Have held an active license as an intern for at least one year
42 and have assisted in arranging and directing at least twenty-five
43 funerals.

1 Sec. 4. Section 32-1324, Arizona Revised Statutes, is amended to
2 read:

3 32-1324. Intern trainee; requirements; temporary employment
4 by funeral establishment

5 A. A funeral establishment may employ for a period of not more than
6 a total of one year an intern trainee who EITHER:

7 1. Is enrolled or intends to enroll in a college of mortuary
8 science as a student.

9 2. COMPLETED OR INTENDS TO COMPLETE A UNITED STATES DEPARTMENT OF
10 LABOR-APPROVED OR A DEPARTMENT OF ECONOMIC SECURITY-APPROVED
11 APPRENTICESHIP PROGRAM IN FUNERAL DIRECTING AND EMBALMING.

12 B. An intern trainee who has completed at least sixteen hours of
13 training ~~in a board-approved course of study that includes training~~ in
14 embalming procedures, ethics of funeral service, applicable board rules,
15 health and safety procedures and universal health and safety precautions
16 THROUGH EITHER A BOARD-APPROVED COURSE OF STUDY OR AN APPRENTICESHIP
17 DESCRIBED IN SUBSECTION A, PARAGRAPH 2 OF THIS SECTION may do the
18 following:

19 1. Assist in the preparation of human remains.

20 2. Assist with an embalming at the funeral establishment if the
21 intern trainee is under the direct personal supervision of an embalmer at
22 all times.

23 3. Except as otherwise provided in this section, perform all other
24 functions of a licensed intern under the supervision of an embalmer or a
25 funeral director.

26 C. An intern trainee shall be of good moral character and is not
27 required to be registered or licensed by the board.

28 D. A funeral establishment that employs an intern trainee shall
29 submit all of the following to the board:

30 1. The name and address of the intern trainee and other information
31 that the board requires.

32 2. A completed fingerprint card and the prescribed fingerprint
33 background check fee for any person employed as an intern trainee.

34 E. The funeral establishment shall report to the board the
35 termination of employment of the intern trainee.

36 Sec. 5. Section 32-1394.01, Arizona Revised Statutes, is amended to
37 read:

38 32-1394.01. Application; qualifications for cremationist
39 licensure; licensure requirement for
40 responsible cremationists

41 A. An applicant for a cremationist license shall submit a completed
42 application on a form prescribed by the board. The application shall be
43 subscribed under oath and shall be accompanied by the applicable fee
44 pursuant to section 32-1309 and any additional information that the board
45 deems necessary.

1 B. An applicant for a cremationist license shall be of good moral
2 character and shall submit a completed fingerprint card and the prescribed
3 fingerprint records check fee to the board to enable the board or the
4 department of public safety to conduct a criminal records check.

5 C. An applicant for a cremationist license shall EITHER:

6 1. Meet the educational requirements as prescribed by the board in
7 rule.

8 2. COMPLETE A UNITED STATES DEPARTMENT OF LABOR-APPROVED
9 APPRENTICESHIP PROGRAM OR A DEPARTMENT OF ECONOMIC SECURITY-APPROVED
10 APPRENTICESHIP PROGRAM IN CREMATION.

11 D. If the board finds that the applicant meets the criteria for
12 cremationist licensure under this section and under rules adopted by the
13 board, the board shall issue a cremationist license.

14 E. Notwithstanding any other law, a responsible cremationist is
15 required to be licensed pursuant to this article. Any other cremationist
16 may be licensed pursuant to this article but, if not licensed, may engage
17 only in cremation activity that is allowed without a license.