State of Arizona  
House of Representatives  
Fifty-fifth Legislature  
Second Regular Session  
2022

CHAPTER 279  

HOUSE BILL 2123  

AN ACT  

AMENDING SECTION 32-1301, ARIZONA REVISED STATUTES; REPEALING SECTION 41-3022.22, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 27, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-3023.17; RELATING TO REGULATION OF FUNERAL DIRECTORS AND EMBALMERS.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 32-1301, Arizona Revised Statutes, is amended to read:

32-1301. Definitions
In this chapter, unless the context otherwise requires:

1. "Accredited" means being recognized or authorized by the American board of funeral service education.
2. "Administrative costs and expenses" means the cost of copies, transcripts, court reporter and witness fees, reimbursement for mileage and office of administrative hearings costs.
3. "Alternative container" means any unfinished wood box or other nonmetal receptacle or enclosure, without ornamentation or a fixed interior lining, that is designed for the encasement of human remains.
4. "Authorizing agent" means a person who is legally entitled to order the cremation, disinterment or embalming of human remains pursuant to section 32-1365.02.
5. "Beneficiary" means a person whose future funeral arrangements will be handled by a funeral establishment pursuant to a prearranged funeral agreement.
6. "Board" means the state board of funeral directors and embalmers.
7. "Business entity" includes any corporation, association, limited liability company, professional corporation, partnership, limited partnership, sole proprietorship, business trust, trust, joint venture and other business entity.
8. "Casket" means a rigid container that is designed to permanently encase human remains and that is usually constructed of wood, metal or synthetic substances and ornamented and lined with fabric.
9. "Change of ownership" means a transfer of a controlling legal or equitable interest in a licensed funeral establishment or crematory resulting from a sale or merger. If the establishment or crematory is operated by a business entity, any transfer of the ownership of ten percent or more of the entity constitutes a change of ownership.
10. "Conviction" means a criminal adjudication or conviction by any state or federal court of competent jurisdiction, including a judgment based on a no contest plea, without regard to whether civil rights have been restored.
11. "Cremated remains" means the remaining bone fragments after cremation.
12. "Cremation" means the heating process that reduces human remains to bone fragments by combustion and evaporation.
13. "Cremation container" means a leak and spill resistant, rigid, combustible, closed receptacle into which human remains are placed before cremation.
14. "Cremationist" means a person who operates a crematory retort, who performs the actual cremation of human remains and who may be licensed pursuant to article 6 of this chapter.

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

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

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

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

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

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

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

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

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

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

25. "Funeral establishment" means a business at a specific location that is licensed pursuant to this chapter and that is devoted to the care, storage or preparation for final disposition or transportation of dead human bodies.
25. "Funeral goods and services":
   (a) Means any personal property or services that are typically sold or provided in connection with the final disposition of human remains, including caskets, alternative containers, outer burial containers, cremation containers, transportation containers, funeral clothing or accessories, monuments, grave markers, urns, embalming services, funeral directing services and similar funeral or burial items. Funeral goods and services do not include goods and services sold by cemeteries.
   (b) DOES not include goods and services sold by cemeteries.

26. "Good moral character" means that a person:
   (a) Has not been convicted of a class 1 or 2 felony by a court of competent jurisdiction.
   (b) Has not, within five years of applying for licensure or registration, been convicted of a felony or misdemeanor if the offense has a reasonable relationship to the person's proposed area of licensure or registration.
   (c) Has not, within five years of applying for licensure or registration, committed any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence or incompetence if the act has a reasonable relationship to the person's proposed area of licensure or registration.
   (d) Is not currently incarcerated in or on community supervision after a period of imprisonment in a local, state or federal penal institution or on criminal probation.
   (e) Has not engaged in fraud or misrepresentation in connection with an application for licensure or registration under this chapter or an examination required for licensure or registration.
   (f) Has not, within five years of applying for licensure or registration, had a license, registration or endorsement revoked or suspended by the board or by the funeral services licensing authority of this state or any other jurisdiction.
   (g) Has not surrendered a license, registration or endorsement to the board or the funeral services licensing authority of this state or any other jurisdiction in lieu of disciplinary action.
   (h) Has not practiced funeral directing or embalming without a license.

27. "Holding facility" means a designated area for the retention of retaining human remains.

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

29. "Intern" means a person who is licensed registered pursuant to this chapter and who is engaged in either or both of the following:
(a) Embalming under the supervision of a licensed registered embalmer.

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

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

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

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

34. "Manage" means:

(a) That a responsible funeral director exercises control and oversight over all employees of a funeral establishment and over funeral transactions, including the care of dead human bodies, funeral services and activities and the documentation and retention of records.

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

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

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

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

38. "Owner":

(a) Means a person who owns ten percent or more of a business entity. Owner

(b) Does not include shareholders of companies who have a class of common equity stock listed or authorized to be listed on the New York stock exchange or the American stock exchange or listed on the NASDAQ stock market.

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

40. "Prearranged funeral agreement" means any agreement or combination of agreements under which a payment is made before the death of the intended beneficiary for funeral goods and services to be delivered or performed after the death of the beneficiary.
38. "Prearranged funeral trust account" means a trust account that is established at a financial institution and into which all monies paid on behalf of a beneficiary pursuant to a prearranged funeral agreement are deposited.

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

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

41. "Provisionally accredited" means being granted candidacy status by the American board of funeral service education.

42. "REGISTRANT" means a person who is registered by the funeral services regulating authority of this state to act as a funeral director, embalmer or intern or to operate a funeral establishment or crematory in this state.

43. "Registration" means a written authorization that is issued by the board and that governs registration as defined in Section 41-3501 and entitles a person to act as an assistant funeral director, an embalmer's assistant or a prearranged funeral salesperson in this state.

44. "Responsible cremationist" means a licensed registered cremationist who manages a crematory.

45. "Responsible funeral director" means a person who is licensed registered pursuant to this chapter, who is engaged in funeral directing and who manages and is accountable for a funeral establishment.

46. "Retort" means an enclosed space within which cremation takes place.

47. "State equivalent examination" means the test or tests that are provided by the conference of funeral service examining boards and offered by the board regulating authority of this state to determine the entry level knowledge and skills of a person regarding funeral directing and embalming.

48. "Supervise" or "supervision" means that a licensed registered embalmer has responsibility for and is within sight and sound of a licensed registered intern who is embalming a dead human body or a student who is assisting in embalming a dead human body.

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

50. "Trust funds" means all monies that are deposited on behalf of a beneficiary of a prearranged funeral agreement funded by trust and all accrued net interest. Trust funds shall be considered an account kept in suspense until distributed to the beneficiary, the funeral establishment or the estate of the beneficiary in accordance with this article.
53. "Universal precautions" means the universal blood and fluid precautions recommended by the centers for disease control of the United States public health service to prevent the transmission of bloodborne and bodily fluid-borne infectious diseases.

54. "Unprofessional conduct" includes the following acts, whether occurring in this state or elsewhere:
   (a) Committing a class 1 or 2 felony.
   (b) Committing a felony or misdemeanor if the offense has a reasonable relationship to funeral directing or embalming. Conviction by any court of competent jurisdiction or a plea of no contest is conclusive evidence of the commission.
   (c) Providing false, misleading or deceptive information on an application for licensure or registration pursuant to this chapter or on an examination required for licensure or registration.
   (d) Bribing or offering to bribe, directly or indirectly, a member of the board of funeral services regulating authority of this state to influence the member's actions in performing the member's duties.
   (e) Wilfully interfering with an embalmer, funeral director or cremationist who has lawful custody of a dead human body in performing the embalmer's, funeral director's or cremationist's duty to embalm or prepare the body for burial, transportation or cremation.
   (f) Paying or causing money or other valuable consideration to be paid to a person, other than an employee of a funeral establishment, to secure business regulated pursuant to this chapter from or through the person.
   (g) Violating any law of this state or any rule adopted by the department of health services that relates to embalming or preparing dead human bodies.
   (h) Certifying falsely to having embalmed or prepared a dead human body that was embalmed by a person other than a licensed embalmer making the certification or an intern under the supervision of a licensed embalmer making the certification.
   (i) Falsely advertising or labeling any service or merchandise with the intention of deceiving the public.
   (j) Shipping or delivering any merchandise or supplies that are not the substantial equivalent of or superior in quality to merchandise or supplies previously presented to the purchaser as samples.
   (k) Committing any act involving dishonesty, fraud, misrepresentation, breach of fiduciary duty, gross negligence or incompetence if the act has a reasonable relationship to funeral directing or embalming.
   (l) Engaging in any conduct or practice that is reasonably related to funeral directing or embalming and that is or may be harmful or dangerous to the health, safety or welfare of the public.
(m) Within a period of five years, having a license, registration or endorsement suspended or revoked by the board or by the funeral services licensing authority of this state or any other jurisdiction or surrendering a license, registration or endorsement in lieu of disciplinary action.

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

Sec. 2. Repeal
Section 41-3022.22, Arizona Revised Statutes, is repealed.
Sec. 3. Title 41, chapter 27, article 2, Arizona Revised Statutes, is amended by adding section 41-3023.17, to read:

41-3023.17. State board of funeral directors and embalmers; termination March 31, 2023

A. The state board of funeral directors and embalmers terminates on March 31, 2023.
B. Title 32, chapter 12 and this section are repealed on January 1, 2024.

Sec. 4. Conforming legislation
The legislative council staff shall prepare proposed legislation conforming the Arizona Revised Statutes to the provisions of this act for consideration in the fifty-sixth legislature, first regular session.

Sec. 5. Legislative purpose and intent
A. Pursuant to section 41-2955, subsection B, Arizona Revised Statutes, the legislature continues the state board of funeral directors and embalmers to promote safe and professional funerary and embalming practices in this state.
B. It is the intent of the legislature to continue the state board of funeral directors and embalmers through March 31, 2023 to allow for additional time to ensure proper legislative consideration and transference of responsibilities for the purposes of public health and safety.

Sec. 6. Effective date; retroactivity
A. Section 32-1301, Arizona Revised Statutes, as amended by this act, is effective from and after March 31, 2023.
B. Sections 2 and 3 of this act apply retroactively to from and after July 1, 2022.

APPROVED BY THE GOVERNOR JUNE 7, 2022.