

Senate Engrossed House Bill

~~commerce authority; adult workforce education~~
~~(now: adult workforce diploma program)~~
(now: funerals; regulation; continuation)

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

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)

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 BEING recognized or authorized by the
7 American 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~~ ENCASING human
14 remains.

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

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

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

23 ~~7.~~ 6. "Business entity" includes any corporation, association,
24 limited liability company, professional corporation, partnership, limited
25 partnership, sole proprietorship, business trust, trust, joint venture and
26 other business entity.

27 ~~8.~~ 7. "Casket" means a rigid container that is designed to
28 permanently encase human remains and that is usually constructed of wood,
29 metal or synthetic substances and ornamented and lined with fabric.

30 ~~9.~~ 8. "Change of ownership" means a transfer of a controlling
31 legal or equitable interest in a ~~licensed~~ REGISTERED funeral establishment
32 or crematory resulting from a sale or merger. If the establishment or
33 crematory is operated by a business entity, any transfer of the ownership
34 of ten percent or more of the entity constitutes a change of ownership.

35 ~~10.~~ 9. "Conviction" means a criminal adjudication or conviction by
36 any state or federal court of competent jurisdiction, including a judgment
37 based on a no contest plea, without regard to whether civil rights have
38 been restored.

39 ~~11.~~ 10. "Cremated remains" means the remaining bone fragments
40 after cremation.

41 ~~12.~~ 11. "Cremation" means the heating process that reduces human
42 remains to bone fragments by combustion and evaporation.

43 ~~13.~~ 12. "Cremation container" means a leak and spill resistant,
44 rigid, combustible, closed receptacle into which human remains are placed
45 before cremation.

1 ~~14.~~ 13. "Cremationist" means a person who operates a crematory
2 retort, who performs the actual cremation of human remains and who may be
3 ~~licensed~~ REGISTERED pursuant to article 6 of this chapter.
4 ~~15.~~ 14. "Crematory" means a building or portion of a building that
5 is ~~licensed~~ REGISTERED pursuant to article 6 of this chapter and that
6 houses a retort in which only human remains are cremated.
7 ~~16.~~ 15. "Disciplinary action" means an action taken ~~by the board~~
8 to 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.~~ 16. "Embalmer" means a person who is ~~licensed~~ REGISTERED
13 pursuant to this chapter and who is engaged in embalming.
14 ~~18.~~ 17. "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~~ REGISTERED embalmer.
17 ~~19.~~ 18. "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.~~ 19. "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.~~ 20. "Fixed price prearranged funeral agreement funded by
25 trust" means any agreement or combination of agreements that establishes a
26 fixed 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.~~ 21. "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.~~ 22. "Funeral directing" means arranging, directing or
36 providing a service in the disposition of dead human bodies for
37 compensation.
38 ~~24.~~ 23. "Funeral director" means a person who is ~~licensed~~
39 REGISTERED pursuant to this chapter and who is engaged in funeral
40 directing.
41 ~~25.~~ 24. "Funeral establishment" means a business at a specific
42 location that is ~~licensed~~ REGISTERED pursuant to this chapter and that is
43 devoted to the care, storage or preparation for final disposition or
44 transportation of dead human bodies.

1 ~~26.~~ 25. "Funeral goods and services":

2 (a) Means any personal property or services that are typically sold
3 or provided in connection with the final disposition of human remains,
4 including caskets, alternative containers, outer burial containers,
5 cremation containers, transportation containers, funeral clothing or
6 accessories, monuments, grave markers, urns, embalming services, funeral
7 directing services and similar funeral or burial items. ~~Funeral goods and~~
8 ~~services do~~

9 (b) DOES not include goods and services sold by cemeteries.

10 ~~27.~~ 26. "Good moral character" means that a person:

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

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

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

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

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

28 (f) Has not, within five years of applying for ~~licensure or~~
29 registration, had a license, registration or endorsement revoked or
30 suspended ~~by the board or~~ by the funeral services ~~licensing~~ REGULATING
31 authority of THIS STATE OR any other jurisdiction.

32 (g) Has not surrendered a license, registration or endorsement to
33 ~~the board or~~ the funeral ~~licensing~~ SERVICES REGULATING authority of THIS
34 STATE OR any other jurisdiction in lieu of disciplinary action.

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

38 ~~28.~~ 27. "Holding facility" means a designated area for ~~the~~
39 ~~retention of~~ RETAINING human remains.

40 ~~29.~~ 28. "Human remains" means a lifeless human body or parts of a
41 human body that allow a reasonable inference that death occurred.

42 ~~30.~~ 29. "Intern" means a person who is ~~licensed~~ REGISTERED
43 pursuant to this chapter and who is engaged in either or both of the
44 following:

1 (a) Embalming under the supervision of a ~~licensed~~ REGISTERED
2 embalmer.

3 (b) Arranging and directing funerals under the supervision of a
4 ~~licensed~~ REGISTERED funeral director.

5 ~~31.~~ 30. "Intern trainee" means a person who intends to enter
6 training as an intern and who is temporarily employed by a funeral
7 establishment.

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

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

14 ~~34.~~ 31. "Manage" means:

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

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

21 ~~35.~~ 32. "National board examination" means the test or tests given
22 by the conference of funeral service examining boards to determine the
23 entry level knowledge and skills of a person regarding funeral directing
24 and embalming.

25 ~~36.~~ 33. "Net interest" means interest earned on a prearranged
26 funeral trust account minus applicable taxes, reasonable and necessary
27 charges made by the financial institution and the annual service fee
28 allowed to be deducted by the funeral establishment according to section
29 32-1391.06, subsection B.

30 ~~37.~~ 34. "Outer burial container" means a container that is
31 designed for placement in a grave around a casket, including burial
32 vaults, grave boxes and grave liners.

33 ~~38.~~ 35. "Owner":

34 (a) Means a person who owns ten percent or more of a business
35 entity. ~~owner~~

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

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

42 ~~40.~~ 37. "Prearranged funeral agreement" means any agreement or
43 combination of agreements under which a payment is made before the death
44 of the intended beneficiary for funeral goods and services to be delivered
45 or performed after the death of the beneficiary.

1 ~~41.~~ 38. "Prearranged funeral trust account" means a trust account
2 that is established at a financial institution and into which all monies
3 paid on behalf of a beneficiary pursuant to a prearranged funeral
4 agreement are deposited.

5 ~~42.~~ 39. "Preparation" means washing, shaving, dressing or
6 arranging hair on, applying cosmetics to or positioning bodily features on
7 a dead human body and placing THE dead human body in a casket.

8 ~~43.~~ 40. "Processed cremated remains" means cremated remains after
9 they are pulverized and cleaned, leaving primarily small bone fragments.

10 ~~44.~~ 41. "Provisionally accredited" means BEING granted candidacy
11 status by the American board of funeral service education.

12 42. "REGISTRANT" MEANS A PERSON WHO IS REGISTERED BY THE FUNERAL
13 SERVICES REGULATING AUTHORITY OF THIS STATE TO ACT AS A FUNERAL DIRECTOR,
14 EMBALMER OR INTERN OR TO OPERATE A FUNERAL ESTABLISHMENT OR CREMATORY IN
15 THIS STATE.

16 ~~45.~~ 43. "Registration" means ~~a written authorization that is~~
17 ~~issued by the board and that~~ GOVERNMENT REGISTRATION AS DEFINED IN SECTION
18 41-3501 AND entitles a person to act as an assistant funeral director, an
19 embalmer's assistant or a prearranged funeral salesperson in this state.

20 ~~46.~~ 44. "Responsible cremationist" means a ~~licensed~~ REGISTERED
21 cremationist who manages a crematory.

22 ~~47.~~ 45. "Responsible funeral director" means a person who is
23 ~~licensed~~ REGISTERED pursuant to this chapter, who is engaged in funeral
24 directing and who manages and is accountable for a funeral establishment.

25 ~~48.~~ 46. "Retort" means an enclosed space within which cremation
26 takes place.

27 ~~49.~~ 47. "State equivalent examination" means the test or tests
28 that are provided by the conference of funeral service examining boards
29 and offered by the ~~board~~ REGULATING AUTHORITY OF THIS STATE to determine
30 the entry level knowledge and skills of a person regarding funeral
31 directing and embalming.

32 ~~50.~~ 48. "Supervise" or "supervision" means that a ~~licensed~~
33 REGISTERED embalmer has responsibility for and is within sight and sound
34 of a ~~licensed~~ REGISTERED intern who is embalming a dead human body or a
35 student who is assisting in embalming a dead human body.

36 ~~51.~~ 49. "Temporary container" means a receptacle that is usually
37 made of cardboard, rigid plastic or another similar material and that is
38 designed to hold processed cremated remains until they are placed in an
39 urn or another permanent container.

40 ~~52.~~ 50. "Trust funds" means all monies that are deposited on
41 behalf of a beneficiary of a prearranged funeral agreement funded by trust
42 and all accrued net interest. Trust funds shall be considered an account
43 kept in suspense until distributed to the beneficiary, the funeral
44 establishment or the estate of the beneficiary in accordance with this
45 article.

1 ~~53.~~ 51. "Universal precautions" means the universal blood and
2 fluid precautions recommended by the centers for disease control of the
3 United States public health service to prevent the transmission of
4 bloodborne and bodily fluid-borne infectious diseases.

5 ~~54.~~ 52. "Unprofessional conduct" includes the following acts,
6 whether occurring in this state or elsewhere:

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

8 (b) Committing a felony or misdemeanor if the offense has a
9 reasonable relationship to funeral directing or embalming. Conviction by
10 any court of competent jurisdiction or a plea of no contest is conclusive
11 evidence of the commission.

12 (c) Providing false, misleading or deceptive information on an
13 application for ~~licensure or~~ registration pursuant to this chapter or on
14 an examination required for ~~licensure or~~ registration.

15 (d) Bribing or offering to bribe, directly or indirectly, a member
16 of the ~~board~~ FUNERAL SERVICES REGULATING AUTHORITY OF THIS STATE to
17 influence the member's actions in performing the member's duties.

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

22 (f) Paying or causing ~~money~~ MONIES or other valuable consideration
23 to be paid to a person, other than an employee of a funeral establishment,
24 to secure business regulated pursuant to this chapter from or through the
25 person.

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

29 (h) Certifying falsely to having embalmed or prepared a dead human
30 body that was embalmed by a person other than a ~~licensed~~ REGISTERED
31 embalmer making the certification or an intern under the supervision of a
32 ~~licensed~~ REGISTERED embalmer making the certification.

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

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

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

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

1 (m) Within a period of five years, having a license, registration
2 or endorsement suspended or revoked ~~by the board or~~ by the funeral
3 services ~~licensing~~ REGULATING authority of THIS STATE OR any other
4 jurisdiction or surrendering a license, registration or endorsement in
5 lieu of disciplinary action.

6 ~~55.~~ 53. "Urn" means a receptacle into which processed cremated
7 remains are placed for disposition.

8 Sec. 2. Repeal

9 Section 41-3022.22, Arizona Revised Statutes, is repealed.

10 Sec. 3. Title 41, chapter 27, article 2, Arizona Revised Statutes,
11 is amended by adding section 41-3023.17, to read:

12 41-3023.17. State board of funeral directors and embalmers;
13 termination March 31, 2023

14 A. THE STATE BOARD OF FUNERAL DIRECTORS AND EMBALMERS TERMINATES ON
15 MARCH 31, 2023.

16 B. TITLE 32, CHAPTER 12 AND THIS SECTION ARE REPEALED ON JANUARY 1,
17 2024.

18 Sec. 4. Conforming legislation

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

22 Sec. 5. Legislative purpose and intent

23 A. Pursuant to section 41-2955, subsection B, Arizona Revised
24 Statutes, the legislature continues the state board of funeral directors
25 and embalmers to promote safe and professional funerary and embalming
26 practices in this state.

27 B. It is the intent of the legislature to continue the state board
28 of funeral directors and embalmers through March 31, 2023 to allow for
29 additional time to ensure proper legislative consideration and
30 transference of responsibilities for the purposes of public health and
31 safety.

32 Sec. 6. Effective date; retroactivity

33 A. Section 32-1301, Arizona Revised Statutes, as amended by this
34 act, is effective from and after March 31, 2023.

35 B. Sections 2 and 3 of this act apply retroactively to from and
36 after July 1, 2022.