

State of Arizona
Senate
Fifty-sixth Legislature
Second Regular Session
2024

SB 1042

Introduced by
Senator Shope

AN ACT

AMENDING SECTIONS 32-1301 AND 32-1398, ARIZONA REVISED STATUTES; RELATING TO FUNERAL INDUSTRY PROFESSIONALS.

(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. "Alkaline hydrolysis" means a form of final disposition that
12 includes all of the following:

13 (a) Reducing a dead human body to essential elements through a
14 water-based dissolution process using alkaline chemicals, heat, agitation
15 and pressure to accelerate natural decomposition.

16 (b) Processing the hydrolyzed remains after they are removed from
17 the alkaline hydrolysis vessel.

18 (c) Placing the processed remains in a hydrolyzed remains
19 container.

20 (d) Releasing the hydrolyzed remains to an appropriate party.

21 4. "Alkaline hydrolysis container":

22 (a) Means a hydrolyzable or biodegradable closed container or pouch
23 that is resistant to leakage of bodily fluids, that encases a dead human
24 body and into which the body is placed before the container's insertion
25 into an alkaline hydrolysis vessel.

26 (b) Includes a hydrolyzable or biodegradable alternative container
27 or casket.

28 5. "Alkaline hydrolysis facility" means a building or structure
29 containing one or more alkaline hydrolysis vessels for alkaline
30 hydrolysis.

31 6. "Alkaline hydrolysis operator" means a person who is trained to
32 carry out the process of alkaline hydrolysis.

33 7. "Alkaline hydrolysis vessel" means the container in which
34 alkaline hydrolysis is performed.

35 8. "Alternative container" means any unfinished wood box or other
36 nonmetal receptacle or enclosure, without ornamentation or a fixed
37 interior lining, that is designed for encasing human remains.

38 9. "Authorizing agent" means a person who is legally entitled to
39 order the cremation, disinterment or embalming of human remains pursuant
40 to section 32-1365.02.

41 10. "Beneficiary" means a person whose future funeral arrangements
42 will be handled by a funeral establishment pursuant to a prearranged
43 funeral agreement.

- 1 11. "Business entity" includes any corporation, association,
2 limited liability company, professional corporation, partnership, limited
3 partnership, sole proprietorship, business trust, trust, joint venture and
4 other business entity.
- 5 12. "Casket" means a rigid container that is designed to
6 permanently encase human remains and that is usually constructed of wood,
7 metal or synthetic substances and ornamented and lined with fabric.
- 8 13. "Change of ownership" means a transfer of a controlling legal
9 or equitable interest in a licensed funeral establishment or crematory
10 resulting from a sale or merger. If the establishment or crematory is
11 operated by a business entity, any transfer of the ownership of ten
12 percent or more of the entity constitutes a change of ownership.
- 13 14. "Conviction" means a criminal adjudication or conviction by any
14 state or federal court of competent jurisdiction, including a judgment
15 based on a no contest plea, without regard to whether civil rights have
16 been restored.
- 17 15. "Cremated remains" means the remaining bone fragments OR SOIL
18 after cremation.
- 19 16. "Cremation" means the ~~heating~~ process that reduces human
20 remains to bone fragments OR SOIL by combustion, ~~and~~ evaporation OR
21 NATURAL ORGANIC REDUCTION.
- 22 17. "Cremation container" means a leak and spill resistant, rigid,
23 combustible, closed receptacle into which human remains are placed before
24 cremation.
- 25 18. "Cremationist" means a person who operates a crematory retort,
26 who performs the actual cremation of human remains and who may be licensed
27 pursuant to article 6 of this chapter.
- 28 19. "Crematory" means a building or portion of a building that is
29 licensed pursuant to article 6 of this chapter and that houses a retort in
30 which only human remains are cremated.
- 31 20. "Department" means the department of health services.
- 32 21. "Director" means the director of the department.
- 33 22. "Disciplinary action" means an action taken to revoke or
34 suspend a license, to impose probationary requirements or civil penalties
35 or to issue a letter of censure or reprimand to any person who is subject
36 to this chapter and who violates any provision of this chapter or rules.
- 37 23. "Embalmer" means a person who is licensed pursuant to this
38 chapter and who is engaged in embalming.
- 39 24. "Embalming" means the implementation of reconstructive
40 procedures and the process of disinfecting and preserving a dead human
41 body to retard organic decomposition by treating the body to reduce the
42 presence and growth of organisms.
- 43 25. "Financial institution" means a bank, savings and loan
44 association, trust company or credit union that is lawfully doing business
45 in this state and that is not affiliated with a funeral establishment.

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

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

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

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

16 30. "Funeral establishment" means a business at a specific location
17 that is licensed pursuant to this chapter and that is devoted to the care,
18 storage or preparation for final disposition or transportation of dead
19 human bodies.

20 31. "Funeral goods and services":

21 (a) Means any personal property or services that are typically sold
22 or provided in connection with the final disposition of human remains,
23 including caskets, alternative containers, outer burial containers,
24 cremation containers, transportation containers, funeral clothing or
25 accessories, monuments, grave markers, urns, embalming services, funeral
26 directing services and similar funeral or burial items.

27 (b) Does not include:

28 (i) Goods and services sold by cemeteries.

29 (ii) Services provided pursuant to a transportation protection
30 agreement.

31 32. "Holding facility" means a designated area for retaining human
32 remains.

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

35 34. "License" means a written authorization that is issued by the
36 department and that entitles a person to act as a funeral director or
37 embalmer or to operate a funeral establishment, crematory or alkaline
38 hydrolysis facility in this state.

39 35. "Licensee" means a person to whom the department has issued a
40 license under this chapter.

41 36. "Manage" means:

42 (a) That a responsible funeral director exercises control and
43 oversight over all employees of a funeral establishment and over funeral
44 transactions, including caring for dead human bodies, funeral services and
45 activities and documenting and retaining records.

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

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

7 ~~38.~~ 38. "NATURAL ORGANIC REDUCTION" MEANS THE CONTAINED, ACCELERATED
8 CONVERSION OF HUMAN REMAINS TO SOIL.

9 ~~39.~~ 39. "Net interest" means interest earned on a prearranged
10 funeral trust account minus applicable taxes, reasonable and necessary
11 charges made by the financial institution and the annual service fee
12 allowed to be deducted by the funeral establishment according to section
13 32-1391.06, subsection B.

14 ~~39.~~ 40. "Outer burial container" means a container that is
15 designed for placement in a grave around a casket, including burial
16 vaults, grave boxes and grave liners.

17 ~~40.~~ 41. "Owner":

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

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

24 ~~41.~~ 42. "Person legally responsible" means the person responsible
25 for burying a dead body as determined in section 36-831.

26 ~~42.~~ 43. "Prearranged funeral agreement" means any agreement or
27 combination of agreements under which a payment is made before the death
28 of the intended beneficiary for funeral goods and services to be delivered
29 or performed after the death of the beneficiary.

30 ~~43.~~ 44. "Prearranged funeral trust account" means a trust account
31 that is established at a financial institution and into which all monies
32 paid on behalf of a beneficiary pursuant to a prearranged funeral
33 agreement are deposited.

34 ~~44.~~ 45. "Preparation" means washing, shaving, dressing or
35 arranging hair on, applying cosmetics to or positioning bodily features on
36 a dead human body and placing the dead human body in a casket.

37 ~~45.~~ 46. "Processed cremated remains" means cremated remains,
38 INCLUDING after they are pulverized and cleaned, leaving primarily small
39 bone fragments OR SOIL.

40 ~~46.~~ 47. "Provisionally accredited" means being granted candidacy
41 status by the American board of funeral service education.

42 ~~47.~~ 48. "Responsible cremationist" means a licensed cremationist
43 who manages a crematory.

1 ~~48.~~ 49. "Responsible funeral director" means a person who is
2 licensed pursuant to this chapter, who is engaged in funeral directing and
3 who manages and is accountable for a funeral establishment.

4 ~~49.~~ 50. "Retort" means an enclosed space within which cremation
5 takes place.

6 ~~50.~~ 51. "Supervise" or "supervision" means that a licensed
7 embalmer has responsibility for and is within sight and sound of a person
8 who is embalming a dead human body or assisting in embalming a dead human
9 body.

10 ~~51.~~ 52. "Temporary container" means a receptacle that is usually
11 made of cardboard, rigid plastic or another similar material and that is
12 designed to hold processed cremated remains until they are placed in an
13 urn or another permanent container.

14 ~~52.~~ 53. "Transportation protection agreement" means an agreement
15 that primarily provides or arranges for services that are related to
16 preparing human remains or cremated remains for the purpose of
17 transportation and such subsequent transportation.

18 ~~53.~~ 54. "Trust funds" means all monies that are deposited on
19 behalf of a beneficiary of a prearranged funeral agreement funded by trust
20 and all accrued net interest. Trust funds shall be considered an account
21 kept in suspense until distributed to the beneficiary, the funeral
22 establishment or the estate of the beneficiary in accordance with this
23 article.

24 ~~54.~~ 55. "Universal precautions" means the universal blood and
25 fluid precautions recommended by the centers for disease control of the
26 United States public health service to prevent the transmission of
27 bloodborne and bodily fluid-borne infectious diseases.

28 ~~55.~~ 56. "Unprofessional conduct" includes the following acts,
29 whether occurring in this state or elsewhere:

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

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

35 (c) Providing false, misleading or deceptive information on an
36 application for licensure pursuant to this chapter or on an examination
37 required for licensure.

38 (d) Bribing or offering to bribe, directly or indirectly, an
39 employee of the department to influence the employee's actions in
40 performing the employee's duties.

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

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

5 (g) Violating any law of this state or any rule adopted by the
6 department that relates to embalming or preparing dead human bodies.

7 (h) Certifying falsely to having embalmed or prepared a dead human
8 body that was embalmed by another person.

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

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

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

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

21 (m) Within a period of five years, having a license or endorsement
22 suspended or revoked by the department or by the funeral services
23 regulating authority of this state or any other jurisdiction or
24 surrendering a license or endorsement in lieu of disciplinary action.

25 ~~56-~~ 57. "Urn" means a receptacle into which processed cremated
26 remains are placed for disposition.

27 Sec. 2. Section 32-1398, Arizona Revised Statutes, is amended to
28 read:

29 32-1398. Crematories; prohibited acts; disciplinary actions

30 A. The department may take disciplinary action against a crematory
31 or an agent or employee of a crematory for any of the following acts:

32 1. Unless otherwise allowed by law, selling or offering to sell a
33 cremation that is not arranged by a funeral establishment licensed
34 pursuant to article 4 of this chapter. This paragraph does not prohibit
35 charging a cremation fee.

36 2. Unless otherwise ~~permitted~~ **ALLOWED** by law, selling or offering
37 to sell any funeral goods and services other than cremation.

38 3. Cremating or causing the cremation of a dead human body before
39 obtaining certification from the county medical examiner or person
40 performing the duties of the county medical examiner pursuant to section
41 11-599 and, if the deceased person did not execute a document authorizing
42 the deceased person's cremation pursuant to section 32-1365.01, before
43 obtaining express written consent to cremate the body from the authorizing
44 agent pursuant to section 32-1365.02.

1 4. Using a retort for any purpose other than the cremation of human
2 remains.

3 5. Cremating more than one dead human body at the same time in the
4 same retort without the express written consent of the authorizing agents.

5 6. Introducing a second dead human body into a retort before
6 reasonable efforts have been made to remove all BONE fragments OR SOIL of
7 the cremated remains from the preceding cremation without the express
8 written consent of the authorizing agents. Incidental and unavoidable
9 residue remaining in a retort after a cremation does not constitute a
10 violation of this paragraph.

11 7. Introducing the cremated human remains of a second dead human
12 body into a processor before the termination of the processing of the
13 cremated human remains that were previously in the processor and before
14 reasonable efforts have been made to remove all BONE fragments OR SOIL of
15 cremated remains from the preceding processing without the express written
16 consent of the authorizing agents. Incidental and unavoidable residue
17 remaining in a processor after a processing does not constitute a
18 violation of this paragraph.

19 8. Retaining any accumulated human residue from any retort,
20 processor, container or other equipment used in cremation. A crematory
21 shall dispose of all accumulated human residue in a cemetery in accordance
22 with the rules of the cemetery and any applicable local ordinances.

23 9. Selling or offering for sale anything of value obtained as a
24 result of the cremation process.

25 10. Violating this chapter or a rule adopted pursuant to this
26 chapter.

27 B. The acts or omissions of an agent or employee of a crematory
28 that violate this chapter or rules adopted pursuant to this chapter are
29 deemed to be acts or omissions of the crematory.