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House Engrossed

State of Arizona
House of Representatives
Forty-sixth Legislature
Second Regular Session
2004

HOUSE BILL 2637

AN ACT

AMENDING TITLE 32, CHAPTER 12, ARTICLE 2, ARIZONA REVISED STATUTES, BY ADDING SECTION 32-1340; AMENDING SECTIONS 32-1361 AND 32-1390.01, ARIZONA REVISED STATUTES; AMENDING TITLE 36, CHAPTER 7, ARTICLE 3, ARIZONA REVISED STATUTES, BY ADDING SECTIONS 36-851 AND 36-852; RELATING TO FUNERAL DIRECTORS AND EMBALMERS.

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

Section 1. Title 32, chapter 12, article 2, Arizona Revised Statutes, is amended by adding section 32-1340, to read:

32-1340. Storage of body or remains; licensure; definition

A. Except as provided in subsection D of this section, a person or entity shall be licensed by the board if the person or entity does both of the following:

1. Stores a dead human body or remains of a dead human body for more than five years even if the storage begins before January 1, 2005.

2. Accepts monies or assets as payment for the storage prescribed by paragraph 1.

B. A person or entity that is required to be licensed pursuant to this section shall pay the fees for funeral establishment licensure prescribed by section 32-1309.

C. The board shall adopt rules for the licensure and regulation of a person or entity described in subsection A of this section. The rules shall not:

1. Disclose the identity of persons being stored, unless a court order requires it.

2. Require an entity to open storage containers, or to remove the contents of the storage containers unless a court order requires it.

3. Prohibit certain materials from being used provided that the materials have been used before the effective date of this act.

4. Change methods of storing a dead human body or remains unless a court order requires it.

D. This section does not apply to the final disposition of dead human remains by burial or interment or to the storage of cremated human remains.

E. An entity that is required to be licensed pursuant to this section shall not be considered an organ procurement agency or organ procurement organization as defined in section 36-841.

F. For the purposes of this section, "remains" means any organ, eye, artery or other portion of a human body and does not include any bone, tooth, blood or any other bodily fluid.

Sec. 2. Section 32-1361, Arizona Revised Statutes, is amended to read:

32-1361. Prohibition of embalming or storage by certain persons; certification of embalming; definition

A. Only a licensed embalmer, a licensed intern, a registered embalmer’s assistant, a registered apprentice embalmer or a student who assists a licensed embalmer in the embalming of dead human bodies pursuant to section 32-1337 shall embalm a dead human body or store a dead human body or remains of a dead human body for more than five years. A licensed intern, registered apprentice embalmer or student may only embalm a dead human body or store a dead human body or remains of a dead human body for more than five years only under the direct supervision of a licensed embalmer.
B. A licensed embalmer who embalms or supervises the embalming of a dead human body shall certify the embalming with the embalmer’s signature and license number.

C. FOR THE PURPOSES OF THIS SECTION, "REMAINS" MEANS ANY ORGAN, TISSUE, EYE, BONE, ARTERY OR OTHER PORTION OF A HUMAN BODY AND DOES NOT INCLUDE BLOOD OR ANY OTHER BODILY FLUID.

Sec. 3. Section 32-1390.01, Arizona Revised Statutes, is amended to read:

32-1390.01. Funeral establishments; disciplinary action; civil penalty

A. The board may deny or refuse to renew the license of a funeral establishment or may take disciplinary action against a funeral establishment for any of the following reasons:

1. Fraud or misrepresentation in obtaining a license.
2. Failure to employ and designate a responsible funeral director.
3. The display or use of a funeral establishment license at any place other than the establishment to which it is issued.
5. A violation of any provision of this chapter or a rule adopted pursuant to this chapter.
6. An act by an agent or an employee of a funeral establishment that violates any provision of this chapter or rules adopted pursuant to this chapter.

B. The acts or omissions of an agent or employee of a funeral establishment that violate any provision of this chapter or rules adopted pursuant to this chapter are considered to be the acts or omissions of the funeral establishment.

C. If the board finds that a funeral establishment has committed an offense listed in subsection A, it may take any of the following actions:

1. Issue a letter of censure or reprimand.
2. Impose probationary terms as the board considers necessary to protect the public health, safety and welfare and to rehabilitate or educate the licensee, including restitution to any customer or other person who was injured by a violation of this chapter or a rule adopted pursuant to this chapter.
3. Impose a civil penalty not to exceed three thousand dollars per violation.
4. Revoke the license of the establishment pursuant to a disciplinary proceeding.
5. Suspend the license for not more than ninety days for a first offense or not more than one hundred eighty days for a second offense.

D. THE BOARD’S POWER UNDER THIS SECTION EXTENDS TO ANY PERSON OR ENTITY THAT STORES A DEAD HUMAN BODY OR REMAINS OF A DEAD HUMAN BODY FOR MORE THAN FIVE YEARS EVEN IF THE STORAGE BEGINS BEFORE JANUARY 1, 2005. FOR THE PURPOSES OF THIS SUBSECTION, "REMAINS" MEANS ANY ORGAN, TISSUE, EYE, BONE,
ARTERY OR OTHER PORTION OF A HUMAN BODY AND DOES NOT INCLUDE BLOOD OR ANY OTHER BODILY FLUID.

Sec. 4. Title 36, chapter 7, article 3, Arizona Revised Statutes, is amended by adding sections 36-851 and 36-852, to read:

36-851. Applicability; definition
A. THIS ARTICLE DOES NOT APPLY TO A PERSON OR ENTITY THAT CHARGES A FEE FOR THE STORAGE OF A DEAD HUMAN BODY OR REMAINS OF A DEAD HUMAN BODY FOR MORE THAN FIVE YEARS.
B. FOR THE PURPOSES OF THIS SECTION, "REMAINS" MEANS ANY ORGAN, TISSUE, EYE, BONE, ARTERY OR OTHER PORTION OF A HUMAN BODY AND DOES NOT INCLUDE BLOOD OR ANY OTHER BODILY FLUID.

36-852. Applicability; acceptance of anatomical gifts
AN ENTITY THAT IS REQUIRED TO BE LICENSED PURSUANT TO THIS SECTION SHALL NOT BE CONSIDERED AN ORGAN PROCUREMENT AGENCY OR ORGAN PROCUREMENT ORGANIZATION AS DEFINED IN SECTION 36-841.

Sec. 5. Effective date
This act is effective from and after September 1, 2005.