

HOUSE BILL REPORT

SSB 5026

As Passed House
April 7, 1993

Title: An act relating to regulation of funeral directors, embalmers, and crematories.

Brief Description: Revising provisions regulating funeral directors, embalmers, and crematories.

Sponsors: Senate Committee on Government Operations
(originally sponsored by Senator A. Rasmussen).

Brief History:

Reported by House Committee on:
Commerce & Labor, March 19, 1993, DP;
Passed House, April 7, 1993, 98-0.

HOUSE COMMITTEE ON COMMERCE & LABOR

Majority Report: Do pass. Signed by 7 members:
Representatives G. Cole, Vice Chair; Lisk, Ranking Minority
Member; Conway; Horn; King; Springer; and Veloria.

Staff: Jim Kelley (786-7166).

Background: Prior to 1989, all health care professionals were licensed by the Department of Licensing. Fees collected for the activities related to the licensing and registration of these professionals were deposited into the health professionals account. Funeral directors and embalmers were classified as health care professionals at that time. When the Department of Health was established, it acquired the responsibility for licensing health care professionals. The licensing of funeral directors and embalmers remained the responsibility of the Department of Licensing. Fees collected for the licensing and registration of funeral directors and embalmers continue to be deposited in the health professionals account. The Department of Licensing does receive credit when the fees are deposited into the account.

Current law limits the dollar amount of fees the director may charge cemetery authorities. Compliance with this law has put the Cemetery Board Program in direct conflict with the statutory requirement that licensing programs be self-sustaining.

Under certain circumstances, the state of Washington provides funds for the disposition of human remains. The state may elect to have the remains cremated. Cemetery authorities that perform these cremations are currently protected from criminal or civil liability for performing the cremations. Other licensed funeral establishments do not have the same legal protection.

Unless directions have been left by the decedent, the right to control the disposition of the decedent's remains rests with the surviving spouse, children, or parents of the decedent. When a decedent has not left directions and there are no known next of kin, a crematory that performs the cremation based on the permission of a representative of the decedent may be held liable for cremating the remains.

Summary of Bill: The funeral directors and embalmers account is created in the custody of the Office of the State Treasurer. All fees, fines, and civil penalties collected by the Department of Licensing for activities related to the licensing and registration of funeral directors and embalmers are deposited into this account. All expenses related to the licensing and registration of funeral directors and embalmers are paid from this account. Any funds remaining in the health professions account attributable to funeral directors and embalmers must be transferred to the new funeral directors and embalmers account.

The director, with the consent of the Cemetery Board, is authorized to set cemetery fees in accordance with the statute requiring that the cost of each professional, occupational, or business licensing program be fully borne by the members of that profession, occupation or business.

In the event of a state-funded and state-ordered cremation, all cemetery authorities or licensed funeral establishments are protected from being held criminally or civilly liable for performing such cremations.

A funeral establishment or cemetery authority may proceed with a cremation if it has made a good faith effort to locate the decedent's immediate relatives or the legal representative of the decedent's estate, or if the cremation is authorized by the most responsible party available. In such a case, the cemetery authority or funeral establishment shall not be criminally or civilly liable for cremating the remains.

Fiscal Note: Available.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Testimony For: Part of this bill is the same as a Department of Licensing request bill. The department has no objection to the remainder of the bill. The cremation provisions would help assure that the decedent's wishes are carried out.

Testimony Against: None.

Witnesses: Jon Donnellan, Department of Licensing (in favor); and B. David Daly, Washington State Funeral Directors Association and Washington Interment Association (in favor).