

As Reported by the House General Government Committee

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H. B. No. 582

Representatives Plummer, Young

To amend sections 4717.01, 4717.12, 4717.24, and 1
4717.30 of the Revised Code regarding embalmers, 2
funeral directors, and crematories. 3

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF OHIO:

Section 1. That sections 4717.01, 4717.12, 4717.24, and 4
4717.30 of the Revised Code be amended to read as follows: 5

Sec. 4717.01. As used in this chapter: 6

(A) "Embalming" means the process of chemically treating 7
the dead human body by any of the following to reduce the 8
presence and growth of microorganisms, to temporarily slow 9
organic decomposition, and to restore acceptable physical 10
appearance: 11

(1) Arterial injection; 12

(2) Cavity treatment; 13

(3) Hypodermic tissue injection. 14

(B) "Funeral business" means a sole proprietorship, 15
partnership, corporation, limited liability company, or other 16
business entity that is engaged in funeral directing for profit 17
or for free from one or more funeral homes licensed under this 18
chapter. 19

(C) "Funeral directing" means the business or profession 20
of directing or supervising funerals for profit from one or more 21
funeral homes licensed under this chapter, the arrangement or 22
sale of funeral services, the filling out or execution of a 23
funeral service contract, the business or profession of 24
preparing dead human bodies for burial by means other than 25
embalming, the disposition of dead human bodies, the provision 26
or maintenance of a place for the preparation, the care, or 27
disposition of dead human bodies, the use in connection with a 28
business of the term "funeral director," "undertaker," 29
"mortician," or any other term from which can be implied the 30
business of funeral directing, or the holding out to the public 31
that one is a funeral director or a disposer of dead human 32
bodies. 33

(D) "Funeral home" means a fixed place for the care, 34
preparation for burial, or disposition of dead human bodies or 35
the conducting of funerals. Each business location is a funeral 36
home, regardless of common ownership or management. 37

(E) "Embalmer" means a person who engages, in whole or in 38
part, in embalming and who is licensed under this chapter. 39

(F) "Funeral director" means a person who engages, in 40
whole or in part, in funeral directing and who is licensed under 41
this chapter. 42

(G) "Final disposition" has the same meaning as in 43
division (J) of section 3705.01 of the Revised Code. 44

(H) "Supervision" means the operation of all phases of the 45
business of funeral directing or embalming under the specific 46
direction of a licensed funeral director or licensed embalmer. 47

(I) "Direct supervision" means the physical presence of a 48

licensed funeral director or licensed embalmer while the 49
specific functions of the funeral or embalming are being carried 50
out. 51

(J) "Embalming facility" means a fixed location, separate 52
from the funeral home, that is licensed under this chapter whose 53
only function is the embalming and preparation of dead human 54
bodies. 55

(K) "Crematory facility" means the physical location at 56
which a cremation chamber is located and the cremation process 57
takes place. "Crematory facility" does not include an infectious 58
waste incineration facility for which a license is held under 59
division (B) of section 3734.05 of the Revised Code, or a solid 60
waste incineration facility for which a license is held under 61
division (A) of that section that includes a notation pursuant 62
to division (B) (3) of that section authorizing the facility to 63
also treat infectious wastes, in connection with the 64
incineration of body parts other than dead human bodies that 65
were donated to science for purposes of medical education or 66
research. 67

(L) "Crematory" means the building or portion of a 68
building that houses the holding facility and the cremation 69
chamber. 70

(M) "Cremation" means the technical process of using heat 71
and flame to reduce human or animal remains to bone fragments or 72
ashes or any combination thereof. "Cremation" includes 73
processing and may include the pulverization of bone fragments. 74

(N) "Cremation chamber" means the enclosed space within 75
which cremation takes place. 76

(O) "Cremated remains" means all human or animal remains 77

recovered after the completion of the cremation process, which 78
may include the residue of any foreign matter such as casket 79
material, dental work, or eyeglasses that were cremated with the 80
human or animal remains. 81

(P) "Lapsed license" means a license issued under this 82
chapter that has become invalid because of the failure of the 83
licensee to renew the license within the time limits prescribed 84
under this chapter. 85

(Q) "Crematory operator" means the person who engages, in 86
whole or in part, in cremation from one or more crematories 87
licensed under this chapter and who has been issued a crematory 88
operator permit under this chapter. 89

(R) "Processing" means the reduction of identifiable bone 90
fragments to unidentifiable bone fragments through manual or 91
mechanical means after the completion of the cremation process. 92

(S) "Pulverization" means the reduction of identifiable 93
bone fragments to granulated particles by manual or mechanical 94
means after the completion of the cremation process. 95

~~(T)~~ (T) (1) "Preneed funeral contract" means a written 96
agreement, contract, or series of contracts to sell or otherwise 97
provide any funeral services, funeral goods, or any combination 98
thereof to be used in connection with the funeral or final 99
disposition of a dead human body, where payment for the goods or 100
services is made either outright or on an installment basis, 101
prior to the death of the person purchasing the goods or 102
services or for whom the goods or services are purchased. 103
~~"Preneed"~~ 104

(2) "Preneed funeral contract" does not include ~~any~~ either 105
of the following: 106

(a) Any preneed cemetery merchandise and services contract 107
or any agreement, contract, or series of contracts pertaining to 108
the sale of any burial lot, burial or interment right, 109
entombment right, or columbarium right with respect to which an 110
endowment care fund is established or is exempt from 111
establishment pursuant to section 1721.21 of the Revised Code; 112

(b) A transportation protection agreement that primarily 113
provides or arranges for services that are related to 114
transporting human remains or cremated remains or preparing such 115
remains for transport. 116

(3) For the purposes of division (T) of this section, 117
"funeral goods" includes caskets. 118

(U) "Purchaser" means the individual who has purchased and 119
financed a preneed funeral contract, and who may or may not be 120
the contract beneficiary. 121

(V) "Contract beneficiary" means the individual for whom 122
funeral goods and funeral services are provided pursuant to a 123
preneed funeral contract. 124

(W) "Seller" means any person that enters into a preneed 125
funeral contract with a purchaser for the provision of funeral 126
goods, funeral services, or both. 127

(X) "Felony" means a criminal act classified as a felony 128
by this state, any other state, or federal law. 129

Sec. 4717.12. (A) The following persons are exempt from 130
the provisions of this chapter: 131

(1) An officer or employee of the department of health or 132
any board of health, who, in compliance with rules or orders of 133
the department of health or board of health, is preparing the 134

body of a person whose death was caused by a virulent communicable disease;	135 136
(2) An officer, employee, or licensed physician of a medical college, when any of these are acting on behalf of a medical college;	137 138 139
(3) Any person carrying out sections 1713.34 to 1713.39 of the Revised Code, prescribing the conditions under which the bodies of indigent persons are held subject for anatomical study;	140 141 142 143
(4) Any person licensed in another state as a funeral director or embalmer who is assisting a funeral director or embalmer licensed under this chapter during a disaster or an emergency in the state that has been declared by this state or a political subdivision.	144 145 146 147 148
(B) This chapter does not prevent or interfere with any of the following:	149 150
(1) The ceremonies, customs, religious rights, or religion of any people, denomination, or sect;	151 152
(2) Any religious denomination or sect, or any body composed of members of a denomination;	153 154
(3) Any church, <u>mosque, temple,</u> or synagogue committee in preparing dead human bodies for burial;	155 156
(4) The conducting of funerals and the burial <u>or cremation</u> of dead human bodies in accordance with the ceremonies or rights described in division (B) of this section without the use, employment, or supervision of a licensed embalmer or funeral director, except when the body is that of a person whose death was caused by a virulent communicable disease, in which case the	157 158 159 160 161 162

rules of the department of health or board of health having 163
territorial jurisdiction shall apply. 164

Sec. 4717.24. (A) A cremation authorization form 165
authorizing the cremation of a dead human body, other than one 166
that was donated to science for purposes of medical education or 167
research, shall include at least all of the following 168
information and statements: 169

(1) A statement that the decedent has been identified in 170
accordance with division ~~(B)~~(C) of this section; 171

(2) The name of the funeral director or other individual 172
who obtained the burial or burial-transit permit authorizing the 173
cremation of the decedent; 174

(3) The name of the authorizing agent and the relationship 175
of the authorizing agent to the decedent; 176

(4) A statement that the authorizing agent in fact has the 177
right to authorize cremation of the decedent and that the 178
authorizing agent does not have actual knowledge of the 179
existence of any living person who has a superior priority right 180
to act as the authorizing agent under section 4717.22 of the 181
Revised Code. If the person executing the cremation 182
authorization form knows of another living person who has such a 183
superior priority right, the authorization form shall include a 184
statement indicating that the person executing the authorization 185
form has made reasonable efforts to contact the person having 186
the superior priority right and has been unable to do so and 187
that the person executing the authorization form has no reason 188
to believe that the person having the superior priority right 189
would object to the cremation of the decedent. 190

(5) A statement of whether the authorizing agent has 191

actual knowledge of the presence in the decedent of a pacemaker, 192
defibrillator, or any other mechanical or radioactive device or 193
implant that poses a hazard to the health or safety of personnel 194
performing the cremation; 195

(6) A statement indicating the crematory facility is to 196
cremate the casket or alternative container in which the 197
decedent was delivered to or accepted by the crematory facility; 198

(7) A statement of whether the crematory facility is 199
authorized to simultaneously cremate the decedent in the same 200
cremation chamber with one or more other decedents who were 201
related to the decedent named in the cremation authorization 202
form by consanguinity or affinity or who, at any time during the 203
one-year period preceding the decedent's death, lived with the 204
decedent in a common law marital relationship or otherwise 205
cohabited with the decedent. A cremation authorization form 206
executed under this section shall not authorize the simultaneous 207
cremation of a decedent in the same cremation chamber with one 208
or more other decedents except under the circumstances described 209
in the immediately preceding sentence. 210

(8) The names of any persons designated by the authorizing 211
agent to be present in the holding facility or cremation room 212
prior to or during the cremation of the decedent or during the 213
removal of the cremated remains from the cremation chamber; 214

(9) The authorization for the crematory facility to 215
cremate the decedent and to process or pulverize the cremated 216
remains as is the practice at the particular crematory facility; 217

(10) A statement of whether it is the crematory facility's 218
practice to return all of the residue removed from the cremation 219
chamber following the cremation or to separate and remove 220

foreign matter from the residue before returning the cremated 221
remains to the authorizing agent or the person designated on the 222
authorization form to receive the cremated remains pursuant to 223
division (A) (11) of this section; 224

(11) The name of the person who is to receive the cremated 225
remains of the decedent from the crematory facility; 226

(12) The manner in which the final disposition of the 227
cremated remains of the decedent is to occur, if known. If the 228
cremation authorization form does not specify the manner of the 229
final disposition of the cremated remains, it shall indicate 230
that the cremated remains will be held by the crematory facility 231
for thirty days after the cremation, unless, prior to the end of 232
that period, they are picked up from the crematory facility by 233
the person designated on the cremation authorization form to 234
receive them, the authorizing agent, or, if applicable, the 235
funeral director who obtained the burial or burial-transit 236
permit for the decedent, or are delivered or shipped by the 237
crematory facility to one of those persons. The authorization 238
form shall indicate that if no instructions for the final 239
disposition are provided on the authorization form and that if 240
no arrangements for final disposition have been made within the 241
thirty-day period, the crematory facility may return the 242
cremated remains to the authorizing agent. The authorization 243
form shall further indicate that if no arrangements for the 244
final disposition of the cremated remains have been made within 245
sixty days after the completion of the cremation and if the 246
authorizing agent has not picked them up or caused them to be 247
picked up within that period, the crematory operator or 248
crematory facility may dispose of them in accordance with 249
division (C) of section 4717.27 of the Revised Code. 250

(13) A listing of the items of value to be delivered to the crematory facility along with the dead human body, if any, and instructions regarding how those items are to be handled;	251 252 253
(14) A statement of whether the authorizing agent has made arrangements for any type of viewing of the decedent or for a service with the decedent present prior to the cremation and, if so, the date, time, and place of the service;	254 255 256 257
(15) A statement of whether the crematory facility may proceed with the cremation at any time after the conditions set forth in division (A) of section 4717.23 of the Revised Code have been met and the decedent has been received at the facility;	258 259 260 261 262
(16) The certification of the authorizing agent to the effect that all of the information and statements contained in the authorization form are accurate;	263 264 265
(17) The signature of the authorizing agent and the signature of at least one witness who observed the authorizing agent execute the cremation authorization form.	266 267 268
<u>(B) A cremation authorization form authorizing the cremation of a dead human body, other than one that was donated to science for purposes of medical education or research, may include the signature of a witness who observed the authorizing agent execute the cremation authorization form.</u>	269 270 271 272 273
<u>(C) In making the identification of the decedent required by division (A) (1) of this section, the funeral home arranging the cremation shall require the authorizing agent or the agent's appointed representative to visually identify the decedent's remains or a photograph or other visual image of the remains. If identification is by photograph or other visual image, the</u>	274 275 276 277 278 279

authorizing agent or representative shall sign the photograph or 280
other visual image. If visual identification is not feasible, 281
other positive identification of the decedent may be used 282
including, but not limited to, reliance upon an identification 283
made through the coroner's office or identification of 284
photographs or other visual images of scars, tattoos, or 285
physical deformities taken from the decedent's remains. 286

~~(C)~~ (D) An authorizing agent who is not available to 287
execute a cremation authorization form in person may designate 288
another individual to serve as the authorizing agent by 289
providing to the crematory facility where the cremation is to 290
occur a written designation, ~~signed by the authorizing agent and~~ 291
~~by a witness who observed the authorizing agent execute the~~ 292
~~designation,~~ authorizing that other individual to serve as the 293
authorizing agent. Any such written designation shall contain 294
the name of the decedent, the name and address of the 295
authorizing agent, the relationship of the authorizing agent to 296
the decedent, and the name and address of the individual who is 297
being designated to serve as the authorizing agent. Upon 298
receiving such a written designation, the operator shall permit 299
the individual named in the written designation to serve as the 300
authorizing agent and to execute the cremation authorization 301
form authorizing the cremation of the decedent named in the 302
written designation. 303

~~(D)~~ (E) An authorizing agent who signs a cremation 304
authorization form under this section is hereby deemed to 305
warrant the accuracy of the information and statements contained 306
in such authorization form, including the identification of the 307
decedent and the agent's authority to authorize the cremation. A 308
funeral home and its employees are not responsible for verifying 309
the accuracy of any information or statements the authorizing 310

agent made on the authorization form, unless the funeral home or 311
its employees have actual knowledge to the contrary regarding 312
any such information or statement. When delivering the 313
decedent's remains to a crematory facility or in carrying out 314
the disposition in its own facility, the funeral home is 315
responsible for having the decedent identified pursuant to 316
division ~~(B)~~ (C) of this section and carrying out the obligations 317
imposed on the funeral home by division (B) of section 4717.29 318
of the Revised Code. 319

~~(E)~~ (F) At any time after executing a cremation 320
authorization form and prior to the beginning of the cremation 321
process, the authorizing agent who executed the cremation 322
authorization form under division (A) or ~~(C)~~ (D) of this section 323
may, in writing, modify the arrangements for the final 324
disposition of the cremated remains of the decedent set forth in 325
the authorization form or may, in writing, revoke the 326
authorization, cancel the cremation, and claim the decedent's 327
body for purposes of making alternative arrangements for the 328
final disposition of the decedent's body. The crematory facility 329
shall cancel the cremation if the crematory facility receives 330
such a revocation before beginning the cremation. 331

~~(F)~~ (G) A cremation authorization form executed under this 332
section does not constitute a contract for conducting the 333
cremation of the decedent named in the authorization form or for 334
the final disposition of the cremated remains of the decedent. 335
The revocation of a cremation authorization form or modification 336
of the arrangements for the final disposition of the cremated 337
remains of the decedent pursuant to division ~~(E)~~ (F) of this 338
section does not affect the validity or enforceability of any 339
contract for the cremation of the decedent named in the 340
authorization form or for the final disposition of the cremated 341

remains of the decedent. 342

Sec. 4717.30. (A) A crematory operator, crematory 343
facility, funeral director, or funeral home is not liable in 344
damages in a civil action for any of the following actions or 345
omissions, unless the actions or omissions were made with 346
malicious purpose, in bad faith, or in a wanton or reckless 347
manner or unless any of the conditions set forth in divisions 348
(B) (1) to (3) of this section apply: 349

(1) (a) For having arranged or performed the cremation of 350
the decedent, or having released or disposed of the cremated 351
remains, in accordance with the instructions set forth in the 352
cremation authorization form executed by the decedent on an 353
antemortem basis under section 4717.21 of the Revised Code; 354

(b) For having arranged or performed the cremation of the 355
decedent or body parts removed from the decedent or living 356
person or having released or disposed of the cremated remains in 357
accordance with section 4717.27 of the Revised Code or the 358
instructions set forth in a cremation authorization form 359
executed by the person authorized to serve as the authorizing 360
agent for the cremation of the decedent or for the cremation of 361
body parts of the decedent or living person, named in the 362
cremation authorization form executed under section 4717.24 or 363
4717.25 of the Revised Code. 364

(2) For having arranged or performed the cremation of the 365
decedent, or having released or disposed of the cremated 366
remains, in accordance with section 4717.27 of the Revised Code 367
or the instructions set forth in the cremation authorization 368
form executed by a designated agent under division ~~(C)~~(D) of 369
section 4717.24 of the Revised Code. 370

(B) The crematory operator, crematory facility, funeral director, or funeral home is not liable in damages in a civil action for refusing to accept a dead human body or body parts or to perform a cremation under any of the following circumstances, unless the refusal was made with malicious purpose, in bad faith, or in a wanton or reckless manner:

(1) The crematory operator, crematory facility, funeral director, or funeral home has actual knowledge that there is a dispute regarding the cremation of the decedent or body parts, until such time as the crematory operator, crematory facility, funeral director, or funeral home receives an order of the probate court having jurisdiction ordering the cremation of the decedent or body parts or until the crematory operator, crematory facility, funeral director, or funeral home receives from the parties to the dispute a copy of a written agreement resolving the dispute and authorizing the cremation to be performed.

(2) The crematory operator, crematory facility, funeral director, or funeral home has a reasonable basis for questioning the accuracy of any of the information or statements contained in a cremation authorization form executed under section 4717.21, 4717.24, or 4717.25 of the Revised Code, as applicable, that authorizes the cremation of the decedent or body parts.

(3) The crematory operator, crematory facility, funeral director, or funeral home has any other lawful reason for refusing to accept the dead human body or body parts or to perform the cremation.

(C) A crematory operator, crematory facility, funeral director, or funeral home is not liable in damages in a civil action for refusing to release or dispose of the cremated

remains of a decedent or body parts when the crematory operator, 401
crematory facility, funeral director, or funeral home has actual 402
knowledge that there is a dispute regarding the release or final 403
disposition of the cremated remains in connection with any 404
damages sustained, prior to the time the crematory operator, 405
crematory facility, funeral home, or funeral director receives 406
an order of the probate court having jurisdiction ordering the 407
release or final disposition of the cremated remains, or prior 408
to the time the crematory operator, crematory facility, funeral 409
director, or funeral home receives from the parties to the 410
dispute a copy of a written agreement resolving the dispute and 411
authorizing the cremation to be performed. 412

(D) A crematory operator, crematory facility, funeral 413
director, or funeral home is not liable in damages in a civil 414
action in connection with the cremation of, or disposition of 415
the cremated remains of, any dental gold, jewelry, or other 416
items of value delivered to the crematory facility or funeral 417
home with a dead human body or body parts, unless either or both 418
of the following apply: 419

(1) The cremation authorization form authorizing the 420
cremation of the decedent or body parts executed under section 421
4717.21, 4717.24, or 4717.25 of the Revised Code, as applicable, 422
contains specific instructions for the removal or recovery and 423
disposition of any such dental gold, jewelry, or other items of 424
value prior to the cremation, and the crematory operator, 425
crematory facility, funeral director, or funeral home has failed 426
to comply with the written instructions. 427

(2) The actions or omissions of the crematory operator, 428
crematory facility, funeral director, or funeral home were made 429
with malicious purpose, in bad faith, or in a wanton or reckless 430

manner. 431

(E) (1) This section does not create a new cause of action 432
against or substantive legal right against a crematory operator, 433
crematory facility, funeral director, or funeral home. 434

(2) This section does not affect any immunities from civil 435
liability or defenses established by another section of the 436
Revised Code or available at common law to which a crematory 437
operator, crematory facility, funeral director, or funeral home 438
may be entitled under circumstances not covered by this section. 439

Section 2. That existing sections 4717.01, 4717.12, 440
4717.24, and 4717.30 of the Revised Code are hereby repealed. 441