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**H. B. No. 582**

**Representatives Plummer, Young**

**Cosponsors: Representatives Abrams, Brennan, Brent, Brewer, Bryant Bailey, Cockley, Deeter, Grim, Lawson-Rowe, Mathews, A., Mathews, T., Piccolantonio, Robb Blasdel, Santucci, Sigrist, Tims, Upchurch, White, A., White, E., Williams, Willis**

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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
<del>(T)</del> <u>(T) (1)</u> "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
<del>"Preneed"</del>	104
<u>(2) "Preneed funeral contract" does not include any either</u>	105
<u>of the following:</u>	106
<u>(a) Any preneed cemetery merchandise and services contract</u>	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
<u>(b) A transportation protection agreement that primarily</u>	113
<u>provides or arranges for services that are related to</u>	114
<u>transporting human remains or cremated remains or preparing such</u>	115
<u>remains for transport.</u>	116
<u>(3) For the purposes of division (T) of this section,</u>	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
<b>Sec. 4717.12.</b> (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 any board of health, who, in compliance with rules or orders of the department of health or board of health, is preparing the body of a person whose death was caused by a virulent communicable disease;	132 133 134 135 136
(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, mosque, temple, 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	157 158

described in division (B) of this section without the use, 159  
employment, or supervision of a licensed embalmer or funeral 160  
director, except when the body is that of a person whose death 161  
was caused by a virulent communicable disease, in which case the 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 251  
the crematory facility along with the dead human body, if any, 252  
and instructions regarding how those items are to be handled; 253

(14) A statement of whether the authorizing agent has made 254  
arrangements for any type of viewing of the decedent or for a 255  
service with the decedent present prior to the cremation and, if 256  
so, the date, time, and place of the service; 257

(15) A statement of whether the crematory facility may 258  
proceed with the cremation at any time after the conditions set 259  
forth in division (A) of section 4717.23 of the Revised Code 260  
have been met and the decedent has been received at the 261  
facility; 262

(16) The certification of the authorizing agent to the 263  
effect that all of the information and statements contained in 264  
the authorization form are accurate; 265

(17) ~~The signature of the authorizing agent and the 266  
signature of at least one witness who observed the authorizing 267  
agent execute the cremation authorization form. 268~~

(B) A cremation authorization form authorizing the 269  
cremation of a dead human body, other than one that was donated 270  
to science for purposes of medical education or research, may 271  
include the signature of a witness who observed the authorizing 272  
agent execute the cremation authorization form. 273

(C) In making the identification of the decedent required 274  
by division (A) (1) of this section, the funeral home arranging 275

the cremation shall require the authorizing agent or the agent's 276  
appointed representative to visually identify the decedent's 277  
remains or a photograph or other visual image of the remains. If 278  
identification is by photograph or other visual image, the 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 371  
director, or funeral home is not liable in damages in a civil 372  
action for refusing to accept a dead human body or body parts or 373  
to perform a cremation under any of the following circumstances, 374  
unless the refusal was made with malicious purpose, in bad 375  
faith, or in a wanton or reckless manner: 376

(1) The crematory operator, crematory facility, funeral 377  
director, or funeral home has actual knowledge that there is a 378  
dispute regarding the cremation of the decedent or body parts, 379  
until such time as the crematory operator, crematory facility, 380  
funeral director, or funeral home receives an order of the 381  
probate court having jurisdiction ordering the cremation of the 382  
decedent or body parts or until the crematory operator, 383  
crematory facility, funeral director, or funeral home receives 384  
from the parties to the dispute a copy of a written agreement 385  
resolving the dispute and authorizing the cremation to be 386  
performed. 387

(2) The crematory operator, crematory facility, funeral 388  
director, or funeral home has a reasonable basis for questioning 389  
the accuracy of any of the information or statements contained 390  
in a cremation authorization form executed under section 391  
4717.21, 4717.24, or 4717.25 of the Revised Code, as applicable, 392  
that authorizes the cremation of the decedent or body parts. 393

(3) The crematory operator, crematory facility, funeral 394  
director, or funeral home has any other lawful reason for 395  
refusing to accept the dead human body or body parts or to 396  
perform the cremation. 397

(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, crematory facility, funeral director, or funeral home has actual knowledge that there is a dispute regarding the release or final disposition of the cremated remains in connection with any damages sustained, prior to the time the crematory operator, crematory facility, funeral home, or funeral director receives an order of the probate court having jurisdiction ordering the release or final disposition of the cremated remains, or prior to the time 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.

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

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

(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