

Bill No. CS for CS for SB 2346

Barcode 711640

CHAMBER ACTION

Senate

House

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The Committee on Criminal Justice (Haridopolos) recommended the following amendment:

Senate Amendment

On page 13, line 29, through page 20, line 8, delete those lines

and insert:

~~(32)(33)~~ "Funeral" or "funeral service" means the observances, services, or ceremonies held to commemorate the life of a specific deceased human being and at which the human remains are present.

~~(33)(34)~~ "Funeral director" means any person licensed under this chapter to practice funeral directing in this state.

~~(34)(35)~~ "Funeral establishment" means a facility licensed under this chapter where a funeral director or embalmer practices funeral directing or embalming.

~~(36)~~ "Funeral merchandise" or "merchandise" means any merchandise commonly sold in connection with the funeral, final disposition, or memorialization of human remains,

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1 ~~including, but not limited to, caskets, outer burial~~
 2 ~~containers, alternative containers, cremation containers,~~
 3 ~~cremation interment containers, urns, monuments, private~~
 4 ~~mausoleums, flowers, benches, vases, acknowledgment cards,~~
 5 ~~register books, memory folders, prayer cards, and clothing.~~

6 ~~(35)(37)~~ "Grave space" means a space of ground in a
 7 cemetery intended to be used for the interment in the ground
 8 of human remains.

9 ~~(36)(38)~~ "Human remains" or "remains," or "dead human
 10 body" or "dead human bodies," means the body of a deceased
 11 human person for which a death certificate or fetal death
 12 certificate is required under chapter 382 and includes the
 13 body in any stage of decomposition ~~and the residue of cremated~~
 14 ~~human bodies.~~

15 ~~(37)(39)~~ "Legally authorized person" means, in the
 16 priority listed, the decedent, when written inter vivos
 17 authorizations and directions are provided by the decedent;
 18 the surviving spouse, unless the spouse has been arrested for
 19 committing against the deceased an act of domestic violence as
 20 defined in s. 741.28 which resulted in or contributed to the
 21 death of the deceased; a son or daughter who is 18 years of
 22 age or older; a parent; a brother or sister who is 18 years of
 23 age or older; a grandchild who is 18 years of age or older; a
 24 grandparent; or any person in the next degree of kinship. In
 25 addition, the term may include, if no family member exists or
 26 is available, the guardian of the dead person at the time of
 27 death; the personal representative of the deceased; the
 28 attorney in fact of the dead person at the time of death; the
 29 health surrogate of the dead person at the time of death; a
 30 public health officer; the medical examiner, county
 31 commission, or administrator acting under part II of chapter

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1 406 or other public administrator; a representative of a
 2 nursing home or other health care institution in charge of
 3 final disposition; or a friend or other person not listed in
 4 this subsection who is willing to assume the responsibility as
 5 the legally authorized person. Where there is a person in any
 6 priority class listed in this subsection, the funeral
 7 establishment shall rely upon the authorization of any one
 8 legally authorized person of that class if that individual
 9 represents that she or he is not aware of any objection to the
 10 cremation of the deceased's human remains by others in the
 11 same class of the person making the representation or of any
 12 person in a higher priority class.

13 ~~(38)(40)~~ "License" includes all authorizations
 14 required or issued under this chapter, except where expressly
 15 indicated otherwise, and shall be understood to include
 16 authorizations previously referred to as registrations or
 17 certificates of authority in chapters 470 and 497 as those
 18 chapters appeared in the 2004 edition of the Florida Statutes.

19 ~~(39)(41)~~ "Licensee" means the person or entity holding
 20 any license or other authorization issued under this chapter,
 21 except where expressly indicated otherwise.

22 ~~(40)(42)~~ "Mausoleum" means a structure or building
 23 which is substantially exposed above the ground and which is
 24 intended to be used for the entombment of human remains.

25 ~~(41)(43)~~ "Mausoleum section" means any construction
 26 unit of a mausoleum which is acceptable to the department and
 27 which a cemetery uses to initiate its mausoleum program or to
 28 add to its existing mausoleum structures.

29 ~~(42)(44)~~ "Monument" means any product used for
 30 identifying a grave site and cemetery memorials of all types,
 31 including monuments, markers, and vases.

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1 ~~(43)(45)~~ "Monument establishment" means a facility
 2 that operates independently of a cemetery or funeral
 3 establishment and that offers to sell monuments or monument
 4 services to the public for placement in a cemetery.

5 ~~(44)(46)~~ "Net assets" means the amount by which the
 6 total assets of a licensee, excluding goodwill, franchises,
 7 customer lists, patents, trademarks, and receivables from or
 8 advances to officers, directors, employees, salespersons, and
 9 affiliated companies, exceed total liabilities of the
 10 licensee. For purposes of this definition, the term "total
 11 liabilities" does not include the capital stock, paid-in
 12 capital, or retained earnings of the licensee.

13 ~~(45)(47)~~ "Net worth" means total assets minus total
 14 liabilities pursuant to generally accepted accounting
 15 principles.

16 ~~(46)(48)~~ "Niche" means a compartment or cubicle for
 17 the memorialization or permanent placement of a container or
 18 urn containing cremated remains.

19 ~~(47)(49)~~ "Ossuary" means a receptacle used for the
 20 communal placement of cremated remains without benefit of an
 21 urn or any other container in which cremated remains may be
 22 commingled with other cremated remains and are nonrecoverable.
 23 It may or may not include memorialization.

24 ~~(48)(50)~~ "Outer burial container" means an enclosure
 25 into which a casket is placed and includes, but is not limited
 26 to, vaults made of concrete, steel, fiberglass, or copper;
 27 sectional concrete enclosures; crypts; and wooden enclosures.

28 ~~(49)(51)~~ "Person," when used without qualification
 29 such as "natural" or "individual," includes both natural
 30 persons and legal entities.

31 ~~(50)(52)~~ "Personal residence" means any residential

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1 building in which one temporarily or permanently maintains her
2 or his abode, including, but not limited to, an apartment or a
3 hotel, motel, nursing home, convalescent home, home for the
4 aged, or a public or private institution.

5 ~~(51)(53)~~ "Practice of direct disposition" means the
6 cremation of human remains without preparation of the human
7 remains by embalming and without any attendant services or
8 rites such as funeral or graveside services or the making of
9 arrangements for such final disposition.

10 ~~(52)(54)~~ "Practice of embalming" means disinfecting or
11 preserving or attempting to disinfect or preserve dead human
12 bodies by replacing certain body fluids with preserving and
13 disinfecting chemicals.

14 ~~(53)(55)~~ "Practice of funeral directing" means the
15 performance by a licensed funeral director of any of those
16 functions authorized by s. 497.372.

17 ~~(54)(56)~~ "Preneed contract" means any arrangement or
18 method, of which the provider of funeral merchandise or
19 services has actual knowledge, whereby any person agrees to
20 furnish funeral merchandise or service in the future.

21 ~~(55)(57)~~ "Preneed sales agent" means any person who is
22 licensed under this chapter to sell preneed burial or funeral
23 service and merchandise contracts or direct disposition
24 contracts in this state.

25 ~~(56)(58)~~ "Principal" means and includes the sole
26 proprietor of a sole proprietorship; all partners of a
27 partnership; all members of a limited liability company;
28 regarding a corporation, all directors and officers, and all
29 stockholders controlling more than 10 percent of the voting
30 stock; and all other persons who can exercise control over the
31 person or entity.

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1 ~~(57)(59)~~ "Processing" means the reduction of
 2 identifiable bone fragments after the completion of the
 3 cremation process to unidentifiable bone fragments by manual
 4 means.

5 ~~(58)(60)~~ "Profession" and "occupation" are used
 6 interchangeably in this chapter. The use of the word
 7 "profession" in this chapter with respect to any activities
 8 regulated under this chapter shall not be deemed to mean that
 9 such activities are not occupations for other purposes in
 10 state or federal law.

11 ~~(59)(61)~~ "Pulverization" means the reduction of
 12 identifiable bone fragments after the completion of the
 13 cremation and processing to granulated particles by manual or
 14 mechanical means.

15 ~~(60)(62)~~ "Refrigeration facility" means a facility
 16 that is operated independently of ~~not physically connected~~
 17 ~~with~~ a funeral establishment, crematory, or direct disposal
 18 establishment, that maintains space and equipment for the
 19 storage and refrigeration of dead human bodies, and that
 20 offers its service to funeral directors, ~~and~~ funeral
 21 establishments, direct disposers, direct disposal
 22 establishments, or crematories for a fee.

23 ~~(61)(63)~~ "Religious institution" means an organization
 24 formed primarily for religious purposes which has qualified
 25 for exemption from federal income tax as an exempt
 26 organization under the provisions of s. 501(c)(3) of the
 27 Internal Revenue Code of 1986, as amended.

28 ~~(62)(64)~~ "Removal service" means any service that
 29 operates independently of a funeral establishment or a direct
 30 disposal establishment, that handles the initial removal of
 31 dead human bodies, and that offers its service to funeral

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1 establishments and direct disposal establishments for a fee.

2 ~~(63)(65)~~ "Rules" refers to rules adopted under this
3 chapter unless expressly indicated to the contrary.

4 ~~(64)(66)~~ "Scattering garden" means a location set
5 aside, within a cemetery, which is used for the spreading or
6 broadcasting of cremated remains that have been removed from
7 their container and can be mixed with or placed on top of the
8 soil or ground cover or buried in an underground receptacle on
9 a commingled basis and that are nonrecoverable. It may or may
10 not include memorialization.

11 ~~(65)(67)~~ "Servicing agent" means any person acting as
12 an independent contractor whose fiduciary responsibility is to
13 assist both the trustee and licensee in administrating their
14 responsibilities pursuant to this chapter.

15 ~~(66)(68)~~ "Solicitation" means any communication which
16 directly or implicitly requests an immediate oral response
17 from the recipient.

18 ~~(67)(69)~~ "Statutory accounting" means generally
19 accepted accounting principles, except as modified by this
20 chapter.

21 ~~(68)(70)~~ "Temporary container" means a receptacle for
22 cremated remains usually made of cardboard, plastic, or
23 similar material designated to hold the cremated remains until
24 an urn or other permanent container is acquired.

25 ~~(69)(71)~~ "Urn" means a receptacle designed to
26 permanently encase cremated remains.

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