

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Regulated Industries Committee

BILL: SB 1096

INTRODUCER: Senator Hays

SUBJECT: Columbaria

DATE: March 29, 2011 REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------------------|
| 1. | Young | Imhof | RI | Unfavorable |
| 2. | | | CM | |
| 3. | | | CA | |
| 4. | | | | |
| 5. | | | | |
| 6. | | | | |

I. Summary:

This bill would allow for the creation of columbaria at motorsports entertainment complexes. The bill requires that a columbarium established at such a motorsports entertainment complex must consist of up to five acres of land and must be constructed, kept, and maintained in accordance with s. 497.260(2), F.S.

The bill provides an effective date of July 1, 2011.

This bill substantially amends section 497.260, Florida Statutes.

II. Present Situation:

Chapter 497, F.S., regulates funeral, cemetery, and consumer services. This chapter provides for the regulation of cemeteries, columbaria, cremation services, cremation practices, cemetery companies, pre-need contracts for funeral services or merchandise, dealers and monument builders, funeral directors, and funeral establishments.

A cemetery is defined as “a place dedicated to and used or intended to be used for the permanent interment of human remains or cremated remains. A cemetery may contain land or earth interment; mausoleum, vault, or crypt interment; a columbarium, ossuary, scattering garden, or other structure or place used or intended to be used for the interment or disposition of cremated remains; or any combination of one or more of such structures or places.”¹

¹ Section 497.005(11), F.S.

The term “columbaria” is defined as “a structure or building that is substantially exposed above the ground and that is intended to be used for the inurnment of cremated remains.”²

Under ch. 497, F.S., persons desiring to operate a cemetery must apply and be approved for licensure by The Department of Financial Services, have a net worth of \$50,000, establish a care and maintenance trust fund of \$50,000 and hold unencumbered fee simple title to all the cemetery land.³ The cemetery property must contain at least 30 contiguous acres and be in compliance with zoning and other provisions under this chapter.⁴ Chapter 497, F.S., establishes time limits for a cemetery company to construct columbaria (must be completed within five years of the first sale),⁵ provides standards for construction, alteration and renovation of columbaria,⁶ and mandates that a company which plans to offer for sale space in a section of a columbarium establish a preconstruction trust fund by written instrument.⁷

A person applying for a license to operate a cemetery will be approved if they meet all requirements provided in s. 497.263, F.S.

Section 497.260, F.S., states that all provisions of ch. 497, F.S., and rules made in connection with the chapter apply to all cemeteries, except under nine limited exceptions. Those exceptions include:

- A cemetery at a religious institution consisting of less than five acres and allowing for only single level ground burials;
- County and municipal cemeteries;
- Community and non-profit cemeteries that provide only single level ground burials and do not sell spaces or burial merchandise;
- Cemeteries owned and operated by religious institutions operated or dedicated prior to June 23, 1976;
- Cemeteries beneficially owned and operated by a fraternal organization or its corporate agent since July 1, 1915;
- A columbarium consisting of less than one-half acre which is owned by and immediately contiguous to an existing religious institution facility and is subject to local government zoning;
- Family cemeteries of less than two acres which do not sell burial spaces or burial merchandise;
- A mausoleum consisting of 2 acres or less which is owned by and immediately contiguous to an existing religious institution facility and is subject to local government zoning and;
- A columbarium consisting of 5 acres or less which is located on the main campus of a state university.⁸

² Section 497.005(16), F.S.

³ Section 497.263, F.S.

⁴ Section 497.263, F.S.

⁵ Section 497.272, F.S.

⁶ Section 497.271, F.S.

⁷ Section 497.272, F.S.

⁸ Section 497.260(1)(a-i), F.S.

All cemeteries in this state, including those covered by the above exemptions, are required to comply with the rules concerning the following subjects:

- The cemetery must keep a record of every burial that takes place at the cemetery;⁹
- The cemetery may not refuse to sell or issue a contract or provide services to any person on the basis race, color, creed, marital status, sex, or national origin;¹⁰
- The ability of the Department to regulate solicitation of sales of burial rights, merchandise or services by licensees covered in ch. 497, F.S.;¹¹
- The person buying a burial right, or other such disposition of remains, may permanently record their purchase of this right;¹²
- Forbidding the cemetery from charging for the installation of a monument not purchased from the cemetery;¹³
- Prohibits sellers of a grave space from tying that purchase to the purchase of a monument; and¹⁴
- The municipalities and the counties must follow certain provisions for dealing with abandoned cemeteries.¹⁵

Section 599.10, F.S., defines a motorsports entertainment complex as a closed-course motorsports facility and its ancillary grounds and facilities which:

- Has at least 70,000 fixed seats for race patrons;
- Has at least 7 scheduled days of motorsports events each calendar year;
- Has at least four motorsports events each calendar year;
- Serves food and beverages at the facility during sanctioned events each calendar year through concession outlets, a majority of which are staffed by individuals who represent or are members of one or more nonprofit civic or charitable organizations that directly financially benefit from such concession outlet sales;
- Engages in tourism promotion; and
- Has on the property permanent exhibitions of motorsports history, events, or vehicles.¹⁶

Daytona International Speedway and Homestead Miami Speedway are the only facilities in the Florida which meet that definition.¹⁷

According to information obtained from National Association for Stock Car Auto Racing (NASCAR) and confirmed by the International Speedway Corporation, there are currently no NASCAR Motor speedways that have a columbaria associated with them.¹⁸

⁹ Section 497.276(1), F.S.

¹⁰ Section 497.152(1)(d), F.S.

¹¹ Section 497.164, F.S.

¹² Section 497.2765, F.S.

¹³ Section 497.278, F.S.

¹⁴ Section 497.280, F.S.

¹⁵ Section 497.284, F.S.

¹⁶ Section 549.10, F.S.

¹⁷ Information obtained via conversation on March 23, 2011, with Cheryl Coxwell, representative of the International Speedway Corporation and ismotorsports.teamworkonline.com. (last visited March 23, 2011).

III. Effect of Proposed Changes:

This bill creates s. 497.260(1)(j), F.S., to provide an exception to the rules of ch. 497, F.S., for a columbarium at a motorsports entertainment complex.

The bill requires that a columbarium established at such a motorsports entertainment complex must consist of up to five acres of land and must be constructed, kept, and maintained in accordance with s. 497.260(2), F.S., and the intent of ch. 497, F.S.

The bill provides an effective date of July 1, 2011.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

¹⁸ Information obtained via www.NASCAR.com/races/tracks, (last visited March 23, 2011).

VIII. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

- B. **Amendments:**

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.
