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LEGISLATIVE ACTION

Senate

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House

Floor: 1/RS/3R

05/02/2017 06:16 PM

Senator Simmons moved the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 872.02, Florida Statutes, is amended to
read:

872.02 Injuring or removing tomb or monument; disturbing
contents of grave or tomb; penalties.-

(1) A person commits a felony of the third degree,
punishable as provided in s. 775.082, s. 775.083, or s. 775.084
if he or she:



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12 (a) ~~who~~ Willfully and knowingly destroys, mutilates,
13 defaces, injures, or removes any tomb, monument, gravestone,
14 burial mound, earthen or shell monument containing human
15 skeletal remains or associated burial artifacts, or other
16 approved structure or approved thing placed or designed for a
17 memorial of the dead, or any fence, railing, curb, or other
18 thing intended for the protection or ornamentation of any tomb,
19 monument, gravestone, burial mound, earthen or shell monument
20 containing human skeletal remains or associated burial
21 artifacts, or other structure before mentioned, or for any
22 enclosure for the burial of the dead;; or

23 (b) Willfully destroys, mutilates, removes, cuts, breaks,
24 or injures any tree, shrub, or plant placed or being within any
25 such enclosure, except for a person performing routine
26 maintenance and upkeep ~~commits a felony of the third degree,~~
27 ~~punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

28 (2) A person who willfully and knowingly excavates,
29 exposes, moves, removes, or otherwise disturbs the contents of a
30 ~~tomb or~~ grave or tomb commits a felony of the second degree,
31 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

32 (3) This section does ~~shall~~ not apply to any person acting
33 under the direction or authority of the Division of Historical
34 Resources of the Department of State, to cemeteries operating
35 under chapter 497, any cemeteries removing or relocating the
36 contents of a grave or tomb as a response to a natural disaster,
37 or to any person otherwise authorized by law to remove or
38 disturb a tomb, monument, gravestone, burial mound, or similar
39 structure, or its contents, as described in subsection (1).

40 (4) For purposes of this section, the term "tomb" includes



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41 any mausoleum, columbarium, or belowground crypt.

42 (5) Notwithstanding subsections (1) and (2), an owner,
43 officer, employee, or agent of a cemetery exempt from regulation
44 pursuant to s. 497.260 may relocate the contents of a grave or
45 tomb:

46 (a) After receiving a written and signed contract between
47 the owner and a legally authorized person as defined in s.
48 497.005(43).

49 (b) If a legally authorized person cannot be located after
50 a reasonable search or if 75 years or more have elapsed since
51 the date of entombment, interment, or inurnment, then public
52 notice must be posted. The public notice must be published once
53 a week for 4 consecutive weeks in a newspaper of general
54 circulation in the county where the cemetery is located. The
55 public notice must contain the name of the cemetery; the name,
56 address, and telephone number of the cemetery representative
57 with whom objections may be filed; the reason for relocation of
58 the contents of the graves or tombs; the names of the human
59 remains to be relocated; the approximate date of the initial
60 entombment, interment, or inurnment; the proposed site of
61 relocation; and the proposed date of relocation. The proposed
62 date of relocation may not be less than 30 days from last date
63 of publication. If no objection from a legally authorized person
64 is received within 30 days from the last date of publication of
65 the public notice, the cemetery may proceed with relocation.

66 (6) If a legally authorized person refuses to sign a
67 contract, as provided in (5) (a), or if a legally authorized
68 person objects, as provided in (5) (b), a public hearing shall be
69 held before the county commission of the county where the



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70 cemetery is located, or the city council, if the cemetery is
71 located in a municipality, and the county commission or the city
72 council shall have sole authority to grant a request for
73 relocation of the contents of such graves or tombs.

74 Section 2. This act shall take effect October 1, 2017.

75 ===== T I T L E A M E N D M E N T =====

76 And the title is amended as follows:

77 Delete everything before the enacting clause
78 and insert:

79 A bill to be entitled

80 An act relating to criminal offenses involving tombs
81 and memorials; amending s. 872.02, F.S.; providing
82 that a person who willfully and knowingly excavates,
83 exposes, moves, or removes the contents of a grave or
84 tomb commits a felony; revising applicability;
85 authorizing an owner, officer, employee, or agent of
86 specified cemeteries to relocate the contents of a
87 grave or tomb, subject to certain conditions;
88 providing an effective date.