

EHB 2571

THE STATE SENATE
Monday, March 29, 2010

ENGROSSED

House Bill No. 2571

ENGROSSED HOUSE BILL NO. 2571 - By: Wesselhoft, Billy, McAffrey, Banz, Brown, Walker, Luttrell and Morgan of the House and Russell of the Senate.

An Act relating to professions and occupations; enacting the Oklahoma Missing in America Act; amending 63 O.S. 2001, Section 1-328, as amended by Section 24, Chapter 57, O.S.L. 2003, and as renumbered by Section 31, Chapter 57, O.S.L. 2003 (59 O.S. Supp. 2009, Section 396.29), which relates to cremation; authorizing transfer of certain remains to charitable organizations approved by the Military Department; requiring certain tax-exempt status of charitable organization; discharging funeral establishment from certain legal obligation or liability upon transfer of remains to organization; providing for noncodification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Oklahoma Missing in America Act".

SECTION 2. AMENDATORY 63 O.S. 2001, Section 1-328, as amended by Section 24, Chapter 57, O.S.L. 2003, and as renumbered by Section 31, Chapter 57, O.S.L. 2003 (59 O.S. Supp. 2009, Section 396.29), is amended to read as follows:

Section 396.29 A. The person charged by law with the duty of burying the body of a deceased person may discharge such duty by

1 causing the body to be cremated as authorized and provided for in
2 the following sections of this article, but the body of a deceased
3 person shall not be disposed of by cremation, or other similar
4 means, within the State of Oklahoma, except in a crematory duly
5 licensed as provided for herein, and then only under a special
6 permit for cremation issued in accordance with the provisions
7 hereof.

8 B. Upon the completion of each cremation, and insofar as is
9 practicable, all of the recoverable residue of the cremation process
10 shall be removed from the crematory and placed in a separate
11 container so that the residue may not be commingled with the
12 cremated remains of other persons. Cremated remains of a dead human
13 shall not be divided or separated without the prior written consent
14 of the authorizing agent.

15 C. A funeral director or funeral establishment that has
16 received express written authorization for final disposition or
17 cremation from the authorizing agent shall not be liable if the
18 final disposition or cremation is performed in accordance with the
19 provisions of the Funeral Services Licensing Act. The funeral
20 director or funeral establishment shall not be liable for following
21 in a reasonable fashion the instructions of any persons who falsely
22 represent themselves as the proper authorizing agents.

1 D. Absent the receipt of a court order or other suitable
2 confirmation of resolution, a funeral director or funeral
3 establishment shall not be liable for refusing to accept human
4 remains for final disposition or cremation if the funeral director
5 or other agent of the funeral establishment:

6 1. Is aware of any dispute concerning the final disposition or
7 cremation of the human remains; or

8 2. Has a reasonable basis for questioning any of the
9 representations made by the authorizing agent.

10 E. Each funeral establishment which offers or performs
11 cremations shall maintain an identification system that ensures the
12 ability of the funeral establishment to identify the human remains
13 in its possession throughout all phases of the cremation process.
14 Upon completion of the cremation process, the crematory operator
15 shall attest to the identity of the cremated remains and the date,
16 time, and place the cremation process occurred on a form prescribed
17 by rule of the Oklahoma Funeral Board. The form shall accompany the
18 human remains in all phases of transportation, cremation, and return
19 of the cremated remains.

20 F. The authorizing agent is responsible for the disposition of
21 the cremated remains. If, after sixty (60) calendar days from the
22 date of cremation, the authorizing agent or the representative of
23 the agent has not specified the ultimate disposition or claimed the

1 cremated remains, the funeral establishment in possession of the
2 cremated remains may dispose of the cremated remains in a dignified
3 and humane manner in accordance with any state, county, or municipal
4 laws or provisions regarding the disposition of cremated remains,
5 except as provided in subsection G of this section. A record of
6 this disposition shall be made and kept by the entity making the
7 disposition. Upon the disposition of unclaimed cremated remains in
8 accordance with this subsection, the funeral establishment and
9 entity which disposed the cremated remains shall be discharged from
10 any legal obligation or liability concerning the disposition of the
11 cremated remains.

12 G. If the authorizing agent determines that the unclaimed
13 cremated remains are those of a military veteran, the funeral
14 establishment may transfer the remains to a charitable organization
15 approved by the Military Department of the State of Oklahoma for the
16 purpose of providing a dignified and honorable funeral for the
17 veteran at a veterans cemetery. The charitable organization shall
18 be listed as an exempt organization under Section 501(c) of the
19 Internal Revenue Code, 26 U.S.C., Section 501(c). Upon the transfer
20 of the veteran's remains to the charitable organization, the funeral
21 establishment shall be discharged from any legal obligation or
22 liability concerning the disposition of the cremated remains.

23 SECTION 3. This act shall become effective November 1, 2010.

1 COMMITTEE REPORT BY: COMMITTEE ON VETERANS & MILITARY AFFAIRS, dated
2 3-24-10 - DO PASS, As Coauthored.