

Regular Session, 2003

ACT No. 1243

HOUSE BILL NO. 1007 (Duplicate of Senate Bill No. 347)

BY REPRESENTATIVE BRUNEAU AND SENATOR BOISSIERE AND
COAUTHORED BY REPRESENTATIVE RICHMOND

AN ACT

To amend and reenact R.S. 8:1(7) and (26), 656, 657, 658, 661, and 662 and R.S. 37:831(9), (16), and (23), 846(A)(6), (11), (13), and (14) and 849 and to enact R.S. 37:831(53) through (70) and 846(A)(16) through (19), and Part III of Chapter 10 of Title 37 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 37:871 through 885, relative to crematories; to provide for definitions; to provide for records of cemetery authorities; to provide relative to the Louisiana State Board of Embalmers and Funeral Directors; to provide for grounds for administrative action; to provide for injunction proceedings; to prohibit certain actions; to provide for qualifications for licenses and exceptions; to provide for renewal of licenses; to provide for license fees; to provide for authorizing agents for cremation; to provide for authorizations to cremate and refusals to cremate; to provide for cremation containers; to provide for cremation procedures and delivery and packaging of cremated human remains; to provide for the disposition of cremated human remains; to provide for violations and penalties; to provide relative to liability; to provide for administration and the promulgation of rules and regulations; to provide relative to pre-arranged or prepaid cremation services; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 8:1(7) and (26), 656, 657, 658, 661, and 662 are hereby amended and reenacted to read as follows:

§1. Definitions

As used in this Title the following words and phrases, unless the context otherwise clearly indicates, shall have the meaning hereinafter ascribed to each:

* * *

(7) "Cemetery" means a place used or intended to be used for the interment of the human dead. It includes a burial park, for earth interments; or a mausoleum, for vault or crypt interments; or a ~~crematory~~ and columbarium, or scattering garden, for cinerary interments; or a combination of one or more of these.

* * *

(26) "Interment" means the disposition of human remains by ~~cremation and~~ inurnment, ~~cremation and~~ scattering, entombment, or burial in a place used or intended to be used, and dedicated, for cemetery purposes.

* * *

§656. Effect of authorization

Any person signing any authorization for the interment ~~or cremation~~ of any remains warrants the truthfulness of any fact set forth in the authorization, the identity of the person whose remains are sought to be interred ~~or cremated~~, and his authority to order the interment ~~or cremation~~; and such person shall be personally liable for all damage occasioned by or resulting from breach of such warranty.

§657. Right to rely on such authorization

The cemetery authority may inter ~~or cremate~~ any remains upon the receipt of a written authorization of a person representing himself to be the person who has the prior right to control the disposition of the remains in accordance with R.S. 8:655. A cemetery authority shall not be liable for interring ~~or cremating~~ pursuant to such authorization, unless it has actual notice that such representation is untrue.

§658. Liability for damages; limitation

No action shall lie against any cemetery authority relating to the remains of any person which have been left in its possession for a period of ~~one year~~ sixty days, unless a written contract has been entered into with the cemetery authority for the care of such remains.

* * *

§661. Undisposed remains; rules and regulations

Whenever any ~~dead human body has~~ remains have been in the lawful possession of any ~~person, firm, corporation or association~~ cemetery authority for a period of ~~one year~~ sixty days or more, ~~or whenever the cremated remains of any dead human body have been in the lawful possession of any person, firm, corporation or association for a period of one year or more,~~ and the relatives of or persons interested in the deceased person fail, neglect, or refuse for such periods of time, respectively, to direct the disposition to be made of the body ~~or remains~~, the body ~~or remains~~ may be disposed of by the ~~person, firm, corporation or association~~ cemetery authority having lawful possession thereof, under and in accordance with such rules and regulations, if any, as may be made and promulgated by the governmental authority or authorities having jurisdiction over the matter.

§662. Record of remains to be kept

The cemetery authority in charge of any premises on which interments ~~or cremations~~ are made shall keep a record of all remains interred ~~or cremated~~ on the premises under its charge, in each case stating the name of each deceased person, date of ~~cremation~~ ~~or~~ interment, location of interment, and name of the funeral director or funeral home.

Section 2. R.S. 37:831(9), (16), and (23), 846(A)(6), (11), (13), and (14) and 849 are hereby amended and reenacted and R.S. 37:831(53) through (70) and 846(A)(16) through (19), and Part III of Chapter 10 of Title 37 of the Louisiana Revised Statutes of 1950, comprised of R.S. 37:871 through 885, are hereby enacted to read as follows:

§831. Definitions

For purposes of this Chapter and implementation thereof, the following terms shall have the meaning as defined herein, unless the context clearly indicates otherwise:

* * *

(9) "Casket" means a rigid container which is designed for the encasement of human remains usually constructed of wood, metal, ~~or manufactured materials such as plastic or fiberglass~~ fiberglass, or other similar material and ornamented and lined with fabric, which may or may not be combustible, in which a dead body is placed for religious services or other rites or ceremonies, for transportation, or for other disposition.

* * *

(16) "Disposition" means the shipment, interment, burial, ~~or cremation,~~ or anatomical donation of a dead human body or parts of a

~~dead human body usually performed by other persons not licensed by the board.~~

* * *

(23) "Funeral directing" means the operation of a funeral home, or, by way of illustration and not limitation, any service whatsoever connected with the management of funerals, or the supervision of hearses or funeral cars, the purchase of caskets or other funeral merchandise, and retail sale and display thereof, the cleaning or dressing of dead human bodies for burial, and the performance or supervision of any service or act connected with the management of funerals from time of death until the body or bodies are delivered to the cemetery, ~~crematorium~~ crematory, or other agent for the purpose of disposition.

* * *

(53) "Authorizing agent" means a person legally entitled to authorize the cremation of human remains.

(54) "Body parts" means human remains or limbs or other portions of the anatomy that are severed from the body during an accident; removed from a person for medical purposes during treatment, surgery, biopsy, autopsy, or medical research; or otherwise become unattached from the body. It also means human bodies or any portion of bodies that have been donated to science for medical, educational, or research purposes.

(55) "Burial-transit permit" means the permit for disposition of a dead human body as required by state law.

(56) "Change of ownership" means a transfer of more than fifty percent of the stock or assets of a funeral establishment or crematory authority.

(57) "Closed container" means any container in which cremated human remains can be placed and closed in a manner so as to prevent leakage or spillage of remains or the entrance of foreign material.

(58) "Cremated human remains" means all the remains of the human body recovered after the completion of the cremation process, including processing, pulverization, or processing and pulverization which leaves only bone fragments reduced to unidentifiable dimensions and may possibly include the residue of any foreign material that was cremated with the human remains.

(59) "Cremation" means the technical process, using direct flame and heat, that reduces human remains to bone fragments through heat and evaporation. Cremation may also include the processing, pulverization, or the processing and pulverization of bone fragments.

(60) "Cremation container" means the container in which the human remains are transported to the crematory and placed in the cremation retort for cremation. A cremation container should substantially meet all of the following standards:

- (a) Be composed of materials suitable for cremation.
- (b) Provide a complete covering for the human remains.
- (c) Be resistant to leakage or spillage.
- (d) Be rigid enough for handling with ease.
- (e) Provide protection to safeguard the health, safety, welfare, and personal integrity of crematory personnel.

(61) "Cremation retort" means the enclosed space within which the cremation process takes place.

(62) "Crematory" means the building or portion of a building that houses the cremation retort for the reduction of bodies of deceased persons to cremated human remains.

(63) "Crematory authority" means the legal entity which is licensed by the board to operate a crematory.

(64) "Crematory retort operator" means the individual who is authorized and licensed by the board to operate the retort and perform the cremation process.

(65) "Holding facility" means an area within or adjacent to the crematory designated for the short-term retention of human remains prior to cremation that shall fulfill all of the following requirements:

(a) Comply with any applicable public health laws.

(b) Preserve the dignity of the human remains.

(c) Recognize the integrity, health, safety, and welfare of the crematory authority personnel operating the crematory.

(d) Be secure from access by anyone other than authorized personnel.

(66) "Human remains" means the body of a deceased person, or part of a body or limb in any stage of decomposition that has been removed from a living or dead person.

(67) "Processing" means the reduction of identifiable bone fragments after the completion of the cremation process to unidentifiable bone fragments by manual or mechanical means.

(68) "Pulverization" means the reduction of identifiable bone fragments after the completion of the cremation and processing of granulated particles by manual or mechanical means.

(69) "Temporary container" means a receptacle for cremated human remains usually made of cardboard, plastic, or similar material designed to hold the cremated human remains until an urn or other permanent container is acquired. "Temporary container" shall not mean a "temporary receiving vault" as defined in R.S. 8:1(39).

(70) "Urn" means a receptacle designed to permanently encase cremated human remains.

* * *

§846. Refusal to grant or renew licenses; revocation or suspension; grounds; hearings

A. The board may refuse to grant, refuse to renew, or may suspend or revoke, any license when the applicant or licensee is found guilty of any of the following acts or omissions:

* * *

(6) Incompetency or untrustworthiness in the practice of embalming, and/or funeral directing, or cremation.

* * *

(11)(a) The employment of any unlicensed person to perform the work of actual embalming and/or funeral directing, except that a registered apprentice may perform the work of actual embalming and/or funeral directing, as long as he is under the direct and constant supervision of a licensed embalmer or funeral director.

(b) The employment of any unlicensed person to engage in the practice of cremation or to operate a cremation retort.

* * *

(13) Refusing to surrender a dead human body or cremated human remains upon the request of the ~~next of kin, or legal representative if there is no next of kin, or person entitled to the custody and control of the body if there is no next of kin available and no legal representative qualified to act~~ or cremated human remains.

(14) Violation of any law of this state relating to the embalming, burial, cremation, or disposal of dead human bodies or cremated human remains, or any of the provisions of this Chapter, or of the rules and regulations of the Louisiana State Board of Embalmers and Funeral Directors or the applicable rules and regulations of the Department of Health and Hospitals, the Department of Environmental Quality, or any other federal, state, or local governmental entity; or promoting, participating in, operating or servicing, directly or indirectly, any burial insurance association or society, or issuing, giving, selling, or distributing any contract, certificate, or coupon, granting or promising to the holder, his representatives or assigns, any burial benefits, or credit thereon, unless such association, society, contract, certificate, or coupon is authorized and approved by Louisiana law.

* * *

(16) Cremating human remains by any person or entity in the state of Louisiana not licensed as a crematory authority, or practicing cremation in any facility not licensed as a crematory, in accordance with the provisions of this Chapter.

(17) If informed by the authorizing agent on a cremation authorization form of the presence of a pacemaker in human remains, failing to take all necessary steps to remove the pacemaker before delivering the human remains to the crematory.

(18) Performing the cremation of human remains without having received proper authorization to cremate in accordance with the provisions of R.S. 37:877.

(19) Violating any cremation procedures as set forth in R.S. 37:879 or the provisions of R.S. 37:880(C) and (D), relative to the disposition of cremated human remains.

* * *

§849. Injunction proceedings

The board may bring legal proceedings to enjoin a person or establishment violating the provisions of this Chapter from practicing the science of embalming, ~~or~~ conducting the business of funeral directing, or operating a funeral establishment, engaging in the practice of cremation, or operating a crematory retort, as may be the case, until such person complies with the requirements of this Chapter. The injunction, if granted, shall not be suspended by bond or appeal, and the person or establishment enjoined shall be cast for ~~attorney's~~ attorney fees ~~not to exceed fifty dollars,~~ and court costs.

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PART III. CREMATORY AND CREMATION REGULATION

§871. Unlawful practice; exception

A. No person shall cremate any human remains in any manner, engage in the practice of cremation, or operate a cremation retort

without obtaining the proper license in accordance with the provisions of this Chapter.

B. No person shall cremate any human remains in a facility that is not licensed for such purpose in accordance with the provisions of this Chapter.

C. The provisions of this Part shall not apply to the Bureau of Anatomical Services, Louisiana State University Health Sciences Center. However, the crematory operated by the bureau shall be subject to an annual inspection by the board.

§872. Qualifications for licensure of a crematory retort operator; exception; compliance with other regulations

A. Any person who operates a crematory retort in this state shall obtain a license issued by the board.

B. In order to receive a license as a crematory retort operator, a person shall meet all of the following requirements:

(1) Be a resident of Louisiana, who is at least twenty-one years old, or is at least eighteen years old and is legally emancipated.

(2) Is found by the board to be of good moral character and possesses temperate habits.

(3) Is a graduate of a high school as evidenced by a diploma or general education development certificate.

(4) Has successfully completed a required training course as approved by the board.

(5) Has submitted evidence of the attainment of all necessary licenses and permits as required by the appropriate local, state, and federal agencies.

(6) Has submitted the appropriate application as furnished and prescribed by the board along with the appropriate license fee as set forth by rule in accordance with R.S. 37:875.

C. However, when issuing a license as a crematory retort operator, the board may waive the requirements of Subsection B of this Section for any person who has been operating a crematory retort for at least one year prior to January 1, 2004.

D. A crematory retort operator shall be subject to all local, state, and federal health and environmental protection requirements and shall obtain all necessary licenses and permits as required by the appropriate local, state, and federal agencies.

§873. Requirements for licensure of a crematory authority; location of crematory; compliance with other regulations

A. Any cemetery, funeral establishment, corporation, partnership, joint venture, or any other person or entity doing business in this state may erect, maintain, and operate a crematory in this state if he meets the requirements of this Section and obtains a license as a crematory authority from the board.

B. In order to obtain a license to operate a crematory in this state, a crematory authority shall do the following:

(1) Certify that all cremations are performed by a licensed crematory retort operator.

(2) Demonstrate, after proper investigation by the board, that the crematory meets all the requirements established by the board by rule with respect to licensed personnel, adequate facilities and buildings, and other necessary facilities.

(3) Submit evidence of the attainment of all necessary licenses and permits as required by the appropriate local, state, and federal agencies.

(4) Submit the appropriate application on a form furnished and prescribed by the board along with the appropriate license fee as set forth by rule in accordance with R.S. 37:875.

C. A crematory may be constructed on or adjacent to any cemetery, in or adjacent to any funeral establishment, or at any other location that is in compliance with local zoning regulations and state laws.

D. A crematory authority shall be subject to all local, state, and federal health and environmental protection requirements and shall obtain all necessary licenses and permits as required by the appropriate local, state, and federal agencies.

§874. Annual renewal of licenses

A. Every licensed crematory retort operator who continues to practice in this state shall renew his license on or before May fifteenth of each calendar year by submitting the appropriate renewal application as required by the board along with the appropriate renewal fee set forth by rule in accordance with R.S. 37:875.

B. Every licensed crematory authority which continues to operate in this state shall renew its license on or before May fifteenth of each calendar year upon submission of the following to the board:

(1) A renewal application on a form prescribed by the board.

(2) An annual report, which indicates any changes which have occurred since the initial application or prior renewal application or that no changes have occurred.

(3) The appropriate renewal fee as set forth by rule in accordance with R.S. 37:875.

§875. Fees

The board is authorized to adopt rules in accordance with the Administrative Procedure Act to impose and collect fees which shall not exceed the following:

- (1) Initial crematory retort operator license \$150.00
- (2) Annual renewal of crematory retort operator license \$50.00
- (3) Initial crematory authority license \$750.00
- (4) Annual renewal of crematory authority license \$400.00

§876. Authorizing agent; notarized declarations

A. The following persons, in the priority listed, shall have the right to serve as an authorizing agent for cremation unless other specific directions have been given by the decedent in the form of a written and notarized declaration:

- (1) The surviving spouse, if no petition for divorce has been filed by either spouse prior to the death of the decedent spouse.
- (2) All of the surviving adult children of the decedent, not including grandchildren or other more remote descendants.
- (3) The surviving parents of the decedent.
- (4) All of the surviving adult siblings of the decedent.
- (5) All of the surviving adult persons respectively in the next degree of kindred as provided in Civil Code Articles 880 et seq.

B. If the required authorization cannot be obtained, a final judgment of a district court shall be required.

C. In the case of those individuals whose disposition is the responsibility of the state or any of its instrumentalities, a public administrator, medical examiner, coroner, state-appointed guardian, or any other public official charged with arranging the disposition of the decedent may serve as the authorizing agent.

D. No person shall be allowed to serve as an authorizing agent when a decedent has left written instructions in a notarized declaration that he does not wish to be cremated.

E. In the event that the decedent has made multiple notarized declarations of disposition, the last notarized declaration shall control.

§877. Authorization to arrange cremation; authorization to cremate; refusal to arrange a cremation; refusal to cremate

A. A funeral director shall have the authority to arrange the cremation of human remains upon the receipt of a cremation authorization form that contains the information provided for in Subsection B of this Section.

B. A crematory authority shall have authority to cremate human remains when they are delivered by the funeral establishment and upon receipt of all of the following:

(1)(a) A cremation authorization form signed by an authorizing agent. Such form shall contain, at a minimum, the following information:

(i) The identity of the human remains and the time and date of death.

(ii) The name and license numbers of the funeral director and funeral establishment that obtained the cremation authorization.

(iii) Notification stating whether the death occurred as a result of a disease declared by the Department of Health and Hospitals to be infectious, contagious, communicable, or otherwise dangerous to the public health, if known.

(iv) The name of the authorizing agent and the relationship between the authorizing agent and the decedent.

(v) A representation that the authorizing agent has the right to authorize the cremation of the decedent and that the authorizing agent is not aware of any living person who has a superior or equal priority to that of the authorizing agent.

(vi) Authorization for the crematory authority to cremate the human remains.

(vii) A warranty by the authorizing agent that the human remains do not contain a pacemaker or any other material or implant that may be potentially hazardous or cause damage to the cremation retort or the crematory retort operator performing the cremation. The authorizing agent shall be ultimately responsible to ensure that any pacemakers or other hazardous implants are removed prior to cremation.

(viii) The name of the person or legal entity authorized to receive the cremated human remains from the crematory authority.

(ix) The manner in which disposition of the cremated human remains is to take place as determined in accordance with the provisions of R.S. 8:655, if known.

(x) A listing of any items of value to be delivered to the crematory authority along with the human remains and instructions for handling the items.

(xi) The signature of the authorizing agent, attesting to the accuracy of all representations contained on the cremation authorization form, except for those representations made by the funeral director pursuant to Item (1)(b)(ii).

(b)(i) Any person signing a cremation authorization form as an authorizing agent shall be deemed to warrant the truthfulness of any facts, except those representations made by the funeral director pursuant to Item (ii) of this Subparagraph, set forth in the cremation authorization form, including the identity of the deceased whose remains are sought to be cremated and that person's authority to order such cremation.

(ii) The cremation authorization form, other than pre-need cremation forms, shall also be signed by a funeral director of the funeral establishment that obtained the cremation authorization. That funeral director shall merely execute the cremation authorization form as a witness and shall not be responsible for any of the representations made by the authorizing agent, unless the individual has actual knowledge to the contrary. The information requested by Items (1)(a)(i), (ii), and (iii), however, shall be considered to be representations of the funeral director or funeral establishment. In addition, the funeral director or establishment shall warrant to the crematory that the human remains delivered to the crematory authority have been positively identified as the decedent listed on the cremation authorization by the authorizing agent or his designated representative. Such identification shall be made in person by the authorizing agent or his designated representative.

(2) A completed and executed burial-transit permit, as provided for in Chapter 1 of Part XXVI of the Sanitary Code provided for in Title 51 of the Louisiana Administrative Code.

(3) Any other documentation or permits as required by the state or any parish.

C. A funeral director may refuse to arrange a cremation and a crematory authority may refuse to accept a body or to perform a cremation.

§878. Cremation containers

A. Human remains shall be delivered to a crematory in a cremation container, which may be a casket. Human remains shall not be removed from the cremation container, and the cremation container shall be cremated with the human remains.

B. No crematory authority shall require that human remains be placed in a casket before cremation or that such remains be cremated in a casket.

§879. Cremation procedures; pacemakers; cremation retorts; refusal to accept a cremation container; unauthorized persons in crematory; simultaneous cremation of the human remains of multiple persons; cremation residue; packaging and delivery of cremated human remains

A. If an authorizing agent informs the funeral director and the cremation authority on the cremation authorization form of the presence of a pacemaker or other hazardous implants in the human remains, then the funeral establishment and the funeral director shall also be responsible for ensuring that all necessary steps have been taken to

remove the pacemaker or other hazardous implants before delivering the human remains to the crematory.

B. Cremation retorts in licensed crematories operating in this state shall be used exclusively for the cremation of human remains.

C. The human remains shall not be received by the crematory authority for cremation until all authorization documents as required by R.S. 37:877 to cremate have been received in writing from the authorizing agent.

D. A crematory authority shall not be required to accept for cremation a cremation container or a casket from which there is evidence of leakage of the body fluids from the human remains therein.

E. No unauthorized person, as determined by the crematory authority, shall be permitted in a crematory while any human remains are in the crematory awaiting cremation, being cremated, or being removed from the cremation retort. However, nothing in this Section shall preclude attendance at the cremation, if specific practices and beliefs of religious groups dictate participation in the cremation process.

F. The simultaneous cremation of the human remains of more than one adult person within the same cremation retort is prohibited.

G. The simultaneous cremation of the human remains of one adult and one or more children shall not be performed, unless the crematory authority has received specific written authorization from all authorizing agents for the human remains to be so cremated. For those cremations performed pursuant to a written authorization as authorized by this Subsection, the written authorization shall exempt the crematory

authority from all liability for commingling of the cremated human remains during the cremation process.

H. Each crematory authority shall maintain proper identification of the remains.

I. Upon completion of the cremation, all of the recoverable residue of the cremation process shall be removed from the cremation retort. All residue of the cremation process shall then be separated from anything other than bone fragments, and such bone fragments shall then be processed to reduce them to unidentifiable particles. Anything other than the unidentifiable particles shall be removed from the cremated residuals and shall be properly disposed of by the crematory authority, unless otherwise directed by the authorizing agent.

J. Cremated human remains shall be packaged according to the following provisions of this Subsection:

(1) If proper authorization has been obtained from the authorizing agent, the properly identified cremated human remains shall be placed within the temporary container or urn ordered by the authorizing agent. The temporary container or urn contents shall be packaged in clean packing materials and shall not be contaminated with any other object, unless specific authorization has been received from the authorizing agent.

(2) When a temporary container is used to return the cremated human remains, the outside of the container shall be clearly identified with the name of the deceased person whose cremated human remains are contained therein, the name of the crematory authority, and an indication the container is a temporary container.

(3) If the cremated human remains will not fit within the dimensions of a temporary container or urn, the remainder of the cremated human remains shall be returned to the authorizing agent or his representative in a separate container attached together with the first container or urn with both being marked as being together.

(4) If the cremated human remains are to be shipped, the temporary container or designated receptacle ordered by the authorizing agent shall be packed securely in a suitable, sturdy, and pressure resistant container which is not fragile and is secured properly. Cremated human remains shall be shipped by a shipper who agrees to ship cremated remains and only by a method which has an internal tracing system available and which provides a receipt signed by the person accepting delivery.

K. Cremated human remains shall be made available by the funeral director or the crematory authority to the individual specified on the cremation authorization form. The funeral director or representative of the crematory authority and the individual receiving the cremated human remains shall sign a receipt indicating the name of the deceased, the date, time, and place of the receipt, and any other information set out in the rules and regulations governing crematories. The crematory authority shall retain a copy of the receipt. After this delivery, the cremated human remains may be transported in any manner in this state, with a copy of the burial-transit permit, and disposed of in accordance with the provisions of this Chapter.

§880. Disposition of cremated human remains; refusal to release cremated human remains; prohibited activities

A.(1) Cremated human remains shall be disposed of in accordance with the provisions of R.S. 8:655.

(2) If a funeral director, funeral establishment, or crematory authority is aware of any dispute concerning the release or disposition of the cremated human remains, the funeral director, funeral establishment, or crematory authority may refuse to release the cremated human remains until the dispute has been resolved or the funeral director, funeral establishment, or crematory authority has been provided with a court order authorizing the release or disposition of the cremated human remains.

B.(1) If, after a period of sixty days from the date of cremation, the person who controls the right of disposition has not completed his responsibility of disposition or claimed the cremated human remains, the crematory authority, funeral establishment, or the person in possession of the cremated human remains may dispose of the cremated human remains in any manner permitted by law.

(2) The person who controls the right of disposition shall be responsible for reimbursing the crematory authority, funeral establishment, or person in possession of the cremated human remains for all reasonable expenses incurred in disposing of the cremated human remains pursuant to this Section. A record of such disposition shall be made and kept by the person making such disposition.

(3) Upon disposing of cremated human remains in accordance with this Section, the crematory authority, funeral establishment, or person in possession of the cremated human remains shall be discharged from any legal obligation or liability concerning such cremated human remains or disposition thereof.

(4) The provisions of this Subsection shall apply to all cremated human remains in the possession of a crematory authority, funeral establishment, or other party on the effective date of this Part.

C. Cremated human remains shall be removed from their closed container before being scattered and shall be scattered in accordance with the laws of this state.

D. Except with the express written permission of the person who controls the right of disposition, no person shall do either of the following:

(1) Place cremated human remains of more than one person in the same closed container. The provisions of this Paragraph shall not apply to placing the cremated human remains of members of the same family in a common closed container designated for the cremated human remains of more than one person.

(2) Dispose of or scatter cremated human remains in such a manner or in such a location that the cremated human remains are commingled with those of another person. The provisions of this Paragraph shall not apply to the scattering of cremated human remains at sea or by air from individual closed containers or to the scattering of cremated human remains in an area located in a dedicated cemetery or privately owned property.

§881. Refusal to grant or renew licenses; revocation or suspension; grounds; hearings

A. The board may refuse to grant or refuse to renew, or may suspend or revoke any license when the applicant or licensee is found guilty of any of the acts or omissions set forth in R.S. 37:846(A).

B. When considering the revocation or suspension of a license, petitions shall be filed, notices shall be given, and hearings shall be conducted in accordance with the provisions of R.S. 37:846(B).

§882. Violations; penalties; hearings; subpoenas

A. Whoever violates any of the provisions of this Part shall be subject to the same penalties provided for in R.S. 37:850.

B. Hearings for violations of the provisions of this Part shall be conducted and subpoenas shall be issued in accordance with the provisions of R.S. 37:847.

§883. Liability; authorizing agent; funeral director, funeral establishment, and crematory authority; refusal to arrange or perform a cremation; refusal to release cremated human remains

A. Except for those representations made by a funeral director pursuant to R.S. 37:877(B)(1)(b)(ii), any person signing a cremation authorization form as an authorizing agent shall be personally and individually liable for all damage occasioned thereby and resulting therefrom. A crematory authority and a funeral director shall rely upon the representations of the authorizing agent in the cremation authorization form.

B. There shall be no liability for a funeral director, funeral establishment, or crematory authority that, pursuant to a crematory authorization, arranges a cremation, cremates human remains pursuant

to such authorization, or releases or disposes of the cremated human remains pursuant to such authorization.

C. A crematory authority shall not be responsible or liable for the commingling of cremated human remains if it has received a written authorization pursuant to the provisions of R.S. 37:879(G).

D. A crematory authority or any other person in possession of cremated human remains for a period of sixty days from the date of cremation shall not be responsible or liable for the disposition of the cremated human remains if such remains have been disposed of in accordance with the provisions of R.S. 37:880(B).

E. A crematory authority shall not be responsible or liable for any valuables delivered to the crematory authority with human remains.

F. If a funeral director refuses to arrange a cremation or a crematory authority refuses to accept a body or to perform a cremation in accordance with R.S. 37:877(C), neither the funeral director nor the crematory authority shall be liable for refusing to accept a body or to perform a cremation.

G. If a funeral director, funeral establishment, or crematory authority refuses to release or dispose of cremated human remains in accordance with R.S. 37:880(A)(2), then such persons or entities shall not be liable for their refusal to release or dispose of cremated human remains.

§884. Administration; promulgation of rules and regulations by board and crematory authorities

A. The board may adopt, promulgate, amend, and repeal such reasonable rules and regulations in accordance with the Administrative Procedure Act as may be consistent with the provisions of this Chapter

governing the cremation of human remains. Such regulations specifically shall include the conditions under which the human remains of persons dying from an infectious, contagious, communicable, or dangerous disease can be transported from any portion of the state to a crematory for the purpose of cremation, and minimum standards of sanitation, required equipment, and fire protection for all crematories which the board may deem necessary for the protection of the public.

B. A crematory authority may enact reasonable rules and regulations, not inconsistent with the provisions of this Chapter, for the management and operation of a crematory, the type of cremation containers it will accept, authorization forms required, witnesses to a cremation, and similar provisions. Nothing in this Subsection shall prevent a crematory authority from enacting rules and regulations which are more stringent than the provisions contained in this Chapter. Each crematory authority shall forward to the board a copy of the rules and regulations which it has adopted for the operation of its facility.

§885. Pre-arranged or prepaid cremation services

Any pre-arranged or prepaid cremation services shall be sold or distributed in accordance with the provisions of R.S. 37:861.

SPEAKER OF THE HOUSE OF REPRESENTATIVES

PRESIDENT OF THE SENATE

GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: _____