

2016 Regular Session

SENATE BILL NO. 166

BY SENATOR APPEL

CEMETERIES. Provides for the burial of certain pet remains with human remains. (1/1/17)

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17

AN ACT

To amend and reenact R.S. 8:1 and to enact Chapter 10-B of Title 8 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 8:691 through 697, relative to pet remains; to authorize the burial of pet remains with human remains; to provide for definitions; to require written authorization; to provide relative to liability; to provide for a warranty; to require the promulgation of rules; to require certain records be kept; to provide for exceptions; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. R.S. 8:1 is hereby amended and reenacted and Chapter 10-B of Title 8 of the Louisiana Revised Statutes of 1950, comprised of R.S. 8:691 through 697, is hereby enacted 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:

(1) "Board" means the Louisiana Cemetery Board.

(2) "Burial" means the placement of human remains or pet remains, as authorized by R.S. 8:691, in a grave.

1 (3) "Burial park" means a tract of land for the burial of human remains **or pet**
2 **remains, as authorized by R.S. 8:691**, in the ground, used or intended to be used,
3 and dedicated, for cemetery purposes.

4 (4) "Burial vault" means a casket container placed in a grave for the purpose
5 of burying human remains **or pet remains, as authorized by R.S. 8:691**.

6 (5) "Care", "endowed care", or "perpetual care" means the maintenance,
7 repair and care of all places where interments have been or are to be made, including
8 the improvements thereon, in keeping with a well maintained cemetery, and general
9 overhead expense necessary for such purposes.

10 (6) "Care funds", as distinguished from receipts from annual charges or gifts
11 for current or annual care, means any cash or cash equivalent impressed with a trust
12 by the terms of any gift, grant, contribution, payment, devise, or bequest, or pursuant
13 to contract, accepted by any cemetery authority owning, operating, controlling, or
14 managing a privately operated cemetery, or by any trustee or licensee, agent or
15 custodian for the same, under R.S. 8:454(B), and the amounts set aside under R.S.
16 8:454(A) and 454.1(C), and any income accumulated therefrom, where legally so
17 directed by the terms of the transaction by which the principal is established. The
18 term "care funds" includes both general and special care funds.

19 (7) "Cemetery" means a place used or intended to be used for the interment
20 of the human dead **or pet remains, as authorized by R.S. 8:691**. It includes a burial
21 park, for earth interments; or a mausoleum, for vault or crypt interments; or a
22 columbarium, or scattering garden, for cinerary interments; or a combination of one
23 or more of these.

24 (8) "Cemetery authority" means any person, firm, corporation, limited
25 liability company, trustee, partnership, association or municipality owning,
26 operating, controlling or managing a cemetery or holding lands within this state for
27 interment purposes.

28 (9) "Cemetery business" and "cemetery purposes" mean any and all business
29 and purposes requisite to, necessary for, or incident to establishing, maintaining,

1 operating, improving or conducting a cemetery, interring human remains **or pet**
2 **remains, as authorized by R.S. 8:691**, and the care, preservation and embellishment
3 of a cemetery.

4 (10) "Cemetery management organization" means a legal entity contracting
5 as an independent contractor with a cemetery authority to manage a cemetery, but
6 does not mean individual managers employed by or contracting directly with
7 cemetery authorities operating under this title.

8 (11) "Cemetery sales organization" means any legal entity contracting as an
9 independent contractor with a cemetery authority to conduct sales of one or more
10 cemetery spaces, whether by deed, servitude, grant of right to use or otherwise,
11 and/or cemetery products. It does not mean individual salesmen or sales managers
12 employed by and contracting directly with cemetery authorities operating under this
13 law, nor does it mean funeral establishments or funeral directors operating under
14 licenses authorized by R.S. 37:831 et seq., when dealing directly with a cemetery
15 authority, with members of the family of a deceased person or other persons
16 authorized by law to arrange for the funeral and/or interment of such deceased
17 human being, or with an individual negotiating the sale of cemetery property as a
18 part of his or her pre-need arrangements under Chapter 6 hereof.

19 (12) "Cemetery space" means a grave, crypt, vault, niche, tomb, lawn crypt,
20 or any other property used or intended to be used for the interment of human remains
21 **or pet remains, as authorized by R.S. 8:691**.

22 (13) "Columbarium" means a building or a structure, room or other space in
23 a building or structure containing niches for permanent inurnment of cremated
24 remains in a place used or intended to be used, and dedicated, for cemetery purposes.

25 (14) "Community cemetery" means a cemetery owned, operated, controlled
26 or managed by any association or organization, in which the sale of lots, graves,
27 crypts, vaults, or niches is restricted principally to individuals within a community.

28 (14.1) "Corporation" means any corporation or limited liability company now
29 or hereafter organized, which is or may be authorized by its articles or operating

1 agreement to conduct any one or more of the businesses of a cemetery.

2 (15) "Cremated remains" means human remains **or pet remains, as**
3 **authorized by R.S. 8:691**, after cremation in a crematory.

4 (16) "Cremation" means the reduction of the body of a deceased person **or**
5 **pet** to cremated remains in a crematory.

6 (17) "Crematory" means a building or structure containing one or more
7 retorts for the reduction of bodies of deceased persons **or pets** to cremated remains.

8 (18) "Crematory and columbarium" means a building or structure containing
9 both a crematory and columbarium.

10 (19) "Crypt" or "vault" means a space in a mausoleum of sufficient size, used
11 or intended to be used, to entomb human remains **or pet remains, as authorized by**
12 **R.S. 8:691**.

13 (20) "Directors" means the board of directors, board of trustees or other
14 governing body of a cemetery authority, cemetery sales organization or cemetery
15 management organization.

16 (20.1) "Disposition" means the interment, burial, cremation, or anatomical
17 donation of the body of a deceased person **or pet** or parts of the body of a deceased
18 person **or pet**. Disposition shall not include any prohibited act under Part I of
19 Chapter 12 of Title 17 of the Louisiana Revised Statutes of 1950, the Louisiana
20 Anatomical Gift Act, the Louisiana Unmarked Human Burial Sites Preservation Act,
21 or the Louisiana Historic Cemetery Preservation Act.

22 (21) "Entombment" means the placement of human remains **or pet remains,**
23 **as authorized by R.S. 8:691**, in a mausoleum.

24 (22) "Family burial ground" means a cemetery in which no lots are sold to
25 the public and in which interments are restricted to a group of persons related to each
26 other by blood or marriage.

27 (22.1) "Force majeure" means any of the following circumstances:

28 (a) A major storm, major flood, or other similar natural disaster.

29 (b) A major accident beyond the cemetery authority's control and not

1 ultimately found to be the fault of the cemetery authority.

2 (c) The delay by the federal government or any of its agencies, or the state
3 or any of its agencies or political subdivisions in granting necessary permits.

4 (d) A valid order of any federal or state court of competent jurisdiction that
5 prevents the timely completion of a project.

6 (23) "Fraternal cemetery" means a cemetery owned, operated, controlled or
7 managed by any fraternal organization or auxiliary organization thereof, in which the
8 sale of lots, graves, crypts, vaults or niches is restricted principally to its members.

9 (24) "Grave" means a space of ground in a cemetery, used or intended to be
10 used, for burial.

11 (25) "Human remains" means the body of a deceased person and includes the
12 body in any stage of decomposition, as well as cremated remains.

13 (26) "Interment" means the disposition of human remains or pet remains,
14 as authorized by R.S. 8:691, by inurnment, scattering, entombment, or burial in a
15 place used or intended to be used, and dedicated, for cemetery purposes.

16 (27) "Inurnment" means placing cremated remains in an urn or other suitable
17 container and placing it in a niche, crypt or vault in a place used or intended to be
18 used, and dedicated, for cemetery purposes.

19 (28) "Lawn crypts" means space for interment in preplaced chambers, or
20 burial vaults, either side by side or multiple depth, covered by earth and/or sod and
21 known also as below-ground crypts, westministers or turf top crypts.

22 (29) "Lot" or "plot" means land in a cemetery used or intended to be used for
23 the interment of human remains or pet remains, as authorized by R.S. 8:691,
24 within a grave, mausoleum or lawn crypt or columbarium.

25 (30) "Mausoleum" or "tomb" means a structure or building for the
26 entombment of human remains or pet remains, as authorized by R.S. 8:691, in
27 crypts or vaults in a place used or intended to be used, and dedicated, for cemetery
28 purposes.

29 (31) "Municipal cemetery" means a cemetery owned, operated, controlled or

1 managed by a municipality or other political subdivision of the state, or
2 instrumentality thereof authorized by law to own, operate or manage a cemetery.

3 (32) "Niche" means a space in a columbarium used or intended to be used for
4 inurnment of cremated human remains **or pet remains, as authorized by R.S.**
5 **8:691.**

6 (33) "Owner" means a person to whom the cemetery authority has transferred
7 full title to or the right of use of and/or interment in any cemetery space and who
8 appears as the title holder in the official records of the cemetery authority.

9 (34) "Perpetual care cemetery" or "endowed care cemetery" means a
10 cemetery wherein lots and other interment spaces are sold or transferred under the
11 representation that the cemetery will receive perpetual or endowed care.

12 (35) "Person" means an individual, corporation, limited liability company,
13 partnership, joint venture, association, trust or any other legal entity.

14 **(35.1) "Pet" means any animal other than a human and includes fowl,**
15 **birds, fish, mammals, and reptiles.**

16 **(35.2) "Pet owner" means an individual who owns, or in the case of a**
17 **deceased individual, owned, a pet.**

18 **(35.3) "Pet remains" means the body of a pet and includes the body in**
19 **any stage of decomposition, as well as cremated remains.**

20 (36) "Privately owned cemetery" means any cemetery except a fraternal,
21 municipal, or religious cemetery or a family burial ground.

22 (36.1) "Rearrangement" or "reuse" means the act of removing and disposing
23 of a previously interred casket and the gathering and placing of human remains **or**
24 **pet remains, as authorized by R.S. 8:691,** in an alternative container within the
25 same cemetery space in order to accommodate additional interments.

26 (37) "Religious cemetery" means a cemetery that is owned, operated,
27 controlled or managed by a recognized church, religious society, association or
28 denomination, or by a cemetery authority or a corporation administering or through
29 which is administered the temporalities of any recognized church, religious society,

1 association or denomination.

2 (38) "Sale" means the sale of the full title to any cemetery space or the sale
3 of the right of use of and/or interment in any cemetery space.

4 (39) "Temporary receiving vault" means a cemetery space used or intended
5 to be used for the temporary placement of human remains or pet remains, as
6 authorized by R.S. 8:691.

7 (40) "Trustee" means the separate legal entity designated as trustee of a
8 cemetery care fund.

9 * * *

10 CHAPTER 10-B. PET REMAINS

11 §691. Burial of pet remains

12 A. A cemetery authority may designate a garden or section of a cemetery
13 for the burial of pet remains with human remains.

14 B. Following such designation, a cemetery authority may bury a pet's
15 remains with the pet's owner or directly adjacent thereto.

16 C. All interments authorized by this Chapter shall occur in a separate
17 garden or section designated for the burial of pet remains with human remains.

18 A cemetery authority may not designate an existing garden or section of the
19 cemetery for the burial of pet remains with human remains.

20 D. In the event that a cemetery consists of only one garden or section, the
21 cemetery authority shall not designate the existing garden or section for the
22 burial of pet remains with human remains. Any such burials must be
23 accomplished pursuant to an expansion and replatting of the cemetery.

24 E. Pet remains shall be contained either:

25 (1) Within the same cemetery space that a pet owner purchases for their
26 own burial; or

27 (2) Within a directly adjacent space owned by the pet owner.

28 F. Pet remains may be buried in the same cemetery space of a pet
29 owner's human remains prior to the burial of the pet owner, at the same time

1 as the burial of the pet owner, or after the burial of the pet owner.

2 §692. Authorization required

3 A. A cemetery authority may inter pet remains with human remains
4 upon receipt of a written authorization by the pet's owner.

5 B. A pet owner may provide written authorization to the cemetery
6 authority at the time of purchase or at any time after becoming the owner of a
7 cemetery space. Written authorization may not be provided after the pet owner
8 is deceased.

9 C. A cemetery authority shall not be liable for interring a pet pursuant
10 to such authorization, unless it has actual notice that such representation is
11 untrue.

12 §693. Effect of authorization

13 Any pet owner signing an authorization for the interment of pet remains
14 warrants the truthfulness of facts set forth in the authorization, the identity of
15 the pet whose remains are sought to be interred, and his authority to order the
16 interment. Such pet owner shall be personally liable for all damage occasioned
17 by, or resulting from, breach of such warranty.

18 §694. Liability for damages; limitation

19 No action shall lie against any cemetery authority relating to the remains
20 of any pet which has been left in its possession for a period of sixty days, unless
21 a written contract has been entered into with the cemetery authority for the
22 care of such remains.

23 §695. Rules and regulations; administration

24 A. Any cemetery authority that has established a garden or section of the
25 cemetery for the burial of pet and human remains shall develop rules and
26 regulations prior to selling any interment rights therein, including but not
27 limited to whether size limits shall be placed on animals.

28 B. A cemetery authority may prevent interment of pet remains not
29 entitled to interment and prevent the use of interment spaces for purposes in

1 violation of its restrictions or rules and regulations.

2 §696. Records required

3 A cemetery authority shall keep a record of all pet remains interred
4 under its charge, in each case stating the name of the pet owner, date of
5 interment, location of interment, name of the pet, species of the pet, and
6 whether the pet is cremated or not.

7 §697. Exceptions

8 A. Except as specifically provided in this Chapter, all the provisions of
9 Title 8 of the Louisiana Revised Statutes of 1950 and all other rules or
10 regulations promulgated thereto pertaining to cemeteries or the burial of
11 human remains shall apply to the burial of pet remains, with the exception of
12 R.S. 8:651, 652, 653, 654, 655, 659, and 663.

13 B. Nothing in this Section shall violate the provisions of Title 3 of the
14 Louisiana Revised Statutes of 1950, R.S. 29:721, et seq., R.S. 8:671, et seq., or
15 R.S. 25:931, et seq.

16 C. Nothing in this Section shall apply or extend the regulatory
17 jurisdiction of the board to property or cemeteries used exclusively for the
18 interment and disposal of nonhuman animals and pets.

19 Section 2. This Act shall become effective on January 1, 2017.

The original instrument and the following digest, which constitutes no part of the legislative instrument, were prepared by Curry Lann.

DIGEST

SB 166 Original

2016 Regular Session

Appel

Present law (R.S. 8:1) provides for definitions relative to cemeteries, including those which specifically provide with respect to human remains.

Proposed law retains present law and includes pet remains in those definitions.

Proposed law additionally provides for the following definitions:

- (1) "Pet" means any animal other than a human and includes fowl, birds, fish, mammals, and reptiles.
- (2) "Pet owner" means an individual who owns, or in the case of a deceased individual, owned, a pet.

- (3) "Pet remains" means the body of a pet and includes the body in any stage of decomposition, as well as cremated remains.

Proposed law authorizes a cemetery authority to designate a garden or section of a cemetery for the burial of pet remains with human remains.

Proposed law further provides that following such designation, a cemetery authority may bury a pet's remains with the pet's owner or directly adjacent thereto.

Proposed law requires that all interments occur in a separate garden or section designated for the burial of pet remains with human remains. A cemetery authority may not designate an existing garden or section of the cemetery for the burial of pet remains with human remains.

Proposed law provides that in the event that a cemetery consists of only one garden or section, the cemetery authority shall not designate the existing garden or section for the burial of pet remains with human remains. Any such burials must be accomplished pursuant to an expansion and replatting of the cemetery.

Proposed law requires that pet remains be contained either:

- (1) Within the same cemetery space that a pet owner purchases for their own burial; or
- (2) Within a directly adjacent space owned by the pet owner.

Proposed law authorizes a cemetery authority to inter pet remains with human remains upon receipt of a written authorization by the pet's owner. Written authorization may not be provided after the pet owner is deceased.

Proposed law provides that any pet owner signing an authorization for the interment of pet remains warrants the truthfulness of facts set forth in the authorization, the identity of the pet whose remains are sought to be interred, and his authority to order the interment. Such pet owner will be personally liable for all damage occasioned by or resulting from breach of such warranty.

Proposed law provides immunity for any cemetery authority relating to the remains of any pet which has been left in its possession for a period of sixty days, unless a written contract has been entered into with the cemetery authority for the care of such remains.

Proposed law requires a cemetery authority that has established a garden or section of the cemetery for the burial of pet and human remains to promulgate rules and regulations prior to selling any interment rights.

Proposed law requires a cemetery authority to keep a record of all pet remains interred under its charge, in each case stating the name of the pet owner, date of interment, location of interment, name of the pet, species of the pet, and whether the pet is cremated or not.

Proposed law provides for certain exceptions and exclusions.

Effective January 1, 2017.

(Amends R.S. 8:1; adds R.S. 8:691-697)