

By: Marchant

H.B. No. 587

A BILL TO BE ENTITLED

AN ACT

relating to the cremation of human remains; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. The heading of Subtitle C, Title 8, Health and Safety Code, is amended to read as follows:

SUBTITLE C. CEMETERIES AND CREMATORIES

SECTION 2. Subtitle C, Title 8, Health and Safety Code, is amended by adding Chapter 716 to read as follows:

CHAPTER 716. CREMATORIES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 716.001. DEFINITIONS. In this chapter:

(1) "Authorizing agent" means a person authorized to dispose of a decedent's remains under Section 711.002.

(2) "Cemetery" has the meaning assigned by Section 711.001.

(3) "Commission" means the Texas Funeral Service Commission.

(4) "Cremated remains" means the recoverable human remains after the completion of the cremation process. The term may include the residue of any nonhuman matter cremated with the deceased human body including casket material, bridgework, or eyeglasses.

(5) "Cremation" means the irreversible process of reducing human remains to bone fragments through direct flame,

1 extreme heat, and evaporation. The term may include pulverization,
2 which is the process of reducing identifiable bone fragments after
3 cremation and processing granulated particles by manual or
4 mechanical means.

5 (6) "Cremation chamber" means an enclosed furnace used
6 exclusively for cremation.

7 (7) "Cremation container" means a casket or other
8 container designed to transport a deceased human body and for
9 placement in a cremation chamber during cremation.

10 (8) "Cremation interment container" means a rigid
11 outer container composed of concrete, steel, fiberglass, or similar
12 material:

13 (A) used for the ground burial of cremated
14 remains; and

15 (B) designed to withstand prolonged exposure to
16 the elements and to support the ground above the container.

17 (9) "Crematory" means a structure containing a furnace
18 used or intended to be used for cremation of human remains.

19 (10) "Crematory establishment" means a business that
20 operates a crematory for which a license is required under
21 Subchapter N, Chapter 651, Occupations Code.

22 (11) "Funeral director" has the meaning assigned by
23 Section 651.001, Occupations Code.

24 (12) "Funeral establishment" has the meaning assigned
25 by Section 651.001, Occupations Code.

26 (13) "Scattering area" means an area designated for
27 scattering cremated remains. The term includes dedicated cemetery

property on which cremated remains may be:

(A) mixed with or placed on top of soil or ground cover; or

(B) commingled and buried in an underground receptacle.

(14) "Temporary container" means a receptacle composed of cardboard, plastic, or similar material designed to temporarily store cremated remains until the remains are placed in an urn or other permanent container.

(15) "Urn" means a container designed to permanently store cremated remains.

Sec. 716.002. CREMATION RULES. (a) The commission may adopt rules consistent with this chapter and Chapter 651, Occupations Code, to govern the cremation of human remains.

(b) The commission by rule shall establish minimum standards for crematory establishments related to sanitation and fire protection equipment essential to the health and safety of crematory personnel and the public.

Sec. 716.003. LOCATION OF CREMATORY. (a) A crematory may be constructed on or adjacent to a perpetual care cemetery or a funeral establishment.

(b) A crematory, other than a crematory registered with the commission on September 1, 2003, must adjoin a perpetual care cemetery or funeral establishment.

Sec. 716.004. WAITING PERIOD FOR CREMATION. (a) A crematory establishment may not cremate human remains within 48 hours of the time of death indicated on a death certificate unless

the waiting period is waived in writing by:

(1) a justice of the peace or medical examiner of the county in which the death occurred; or

(2) a court order.

(b) Unless a crematory establishment is also licensed as a funeral establishment, the crematory establishment may not accept any deceased human remains for cremation until the cremation is authorized in writing by a justice of the peace or medical examiner of the county in which the death occurred.

Sec. 716.005. CREMATORY ESTABLISHMENT PROCEDURES. A crematory establishment may adopt procedures not inconsistent with this chapter for the management and operation of a crematory.

Sec. 716.006. APPLICABILITY OF CHAPTER TO OTHER LAW. The provisions of this chapter may not be construed to require a funeral director to perform any act not otherwise authorized by other law.

[Sections 716.007-716.050 reserved for expansion]

SUBCHAPTER B. AUTHORIZATION REQUIREMENTS

Sec. 716.051. CREMATION AUTHORIZATION. Except as otherwise provided in this chapter, a crematory establishment may not cremate deceased human remains until it receives:

(1) a cremation authorization form signed by an authorizing agent; and

(2) a death certificate or other death record that indicates the deceased human remains may be cremated.

Sec. 716.052. CREMATION AUTHORIZATION FORM. (a) A cremation authorization form must:

(1) identify the deceased person and the time and date

1 of death;

2 (2) include the name and address of the funeral
3 director or other person that contracted to provide for the
4 cremation;

5 (3) specify the cause of death;

6 (4) identify the authorizing agent and the
7 relationship between the authorizing agent and the deceased person;

8 (5) include a written affidavit declaring that:

9 (A) the authorizing agent has the right to
10 authorize the cremation of the deceased person and is not aware of
11 any person with a superior or equal priority right; or

12 (B) if another person has a superior or equal
13 priority right to authorize cremation, the authorizing agent has
14 made all reasonable efforts but failed to contact that person and
15 believes the person would not object to the cremation;

16 (6) authorize the crematory establishment to cremate
17 the human remains;

18 (7) declare the human remains do not contain a
19 pacemaker or any other material or implant that may potentially be
20 hazardous or cause damage to the cremation chamber or the person
21 performing the cremation;

22 (8) include the name of the person authorized to
23 receive the cremated remains from the crematory establishment;

24 (9) detail the manner of permanent disposition of the
25 cremated remains, if known;

26 (10) list any items of value delivered to the
27 crematory establishment along with the human remains and include

1 instructions on the handling of the items;

2 (11) specify whether the authorizing agent has
3 arranged for a viewing or service with the deceased person present
4 before cremation and the date and time of the viewing or service;
5 and

6 (12) include the signature of the authorizing agent
7 attesting to the accuracy of all representations contained on the
8 cremation authorization form.

9 (b) A cremation authorization form must include a written
10 notice to the authorizing agent that:

11 (1) the authorizing agent assumes responsibility for
12 the disposition of the cremated remains; and

13 (2) the crematory establishment may:

14 (A) release to the authorizing agent, in person,
15 the cremated remains of the deceased person;

16 (B) ship the cremated remains to the authorizing
17 agent if the agent authorizes shipment and provides a shipping
18 address on the authorization form; or

19 (C) dispose of the cremated remains in accordance
20 with this chapter not earlier than the 60th day following the date
21 of cremation if the cremated remains have not been claimed by the
22 authorizing agent.

23 (c) Except as provided by Subsection (e), a funeral director
24 or other representative of a funeral establishment that contracts
25 to provide for the cremation of deceased human remains must sign the
26 cremation authorization form. The funeral director or
27 representative is not responsible for any representations made by

1 the authorizing agent unless the director or representative has
2 received a written statement that indicates a representation by the
3 agent is false or misleading.

4 (d) A crematory establishment shall provide a cremation
5 authorization form to an authorizing agent on request.

6 (e) A funeral director or other representative of a funeral
7 establishment that contracts to provide for the cremation of
8 deceased human remains is not required to sign a statement of
9 intention to be cremated prepared by an individual before the
10 individual's death.

11 Sec. 716.053. DELEGATION OF CREMATION AUTHORIZATION
12 AUTHORITY. (a) An authorizing agent may delegate to a
13 representative in writing the authority to execute a cremation
14 authorization form.

15 (b) An authorizing agent's written delegation of authority
16 must be notarized and include:

17 (1) the name and address of the authorizing agent and
18 the relationship of the authorizing agent to the deceased person;

19 (2) the name and address of the representative; and

20 (3) an acknowledgment by the authorizing agent that
21 the representative may serve as the authorizing agent and execute
22 the cremation authorization form.

23 [Sections 716.054–716.100 reserved for expansion]

24 SUBCHAPTER C. RECEIPT AND IDENTIFICATION OF REMAINS

25 Sec. 716.101. UNIDENTIFIED HUMAN REMAINS. A crematory
26 establishment may not accept for cremation unidentified human
27 remains.

Sec. 716.102. RECEIPT ACKNOWLEDGING ACCEPTANCE OF REMAINS.

(a) A crematory establishment shall furnish to an individual who delivers deceased human remains to the crematory establishment a receipt that includes:

(1) the signature and printed name of the individual who delivered the remains;

(2) the date and time of the delivery;

(3) the type of cremation container in which the remains were delivered;

(4) the name of the funeral establishment or other entity that contracted to provide for the cremation;

(5) the name of the individual who received the human remains; and

(6) the name of the deceased person.

(b) The crematory establishment shall retain a copy of the receipt required by Subsection (a) in the crematory establishment's records and furnish a copy of the receipt to the authorized agent.

Sec. 716.103. IDENTIFICATION RESPONSIBILITY OF CREMATORY. A crematory establishment shall place on the exterior of a cremation container a label with the deceased person's name as provided by the authorizing agent unless the crematory establishment knows the name is incorrect.

Sec. 716.104. IDENTIFICATION RESPONSIBILITIES OF FUNERAL DIRECTOR OR ESTABLISHMENT. (a) A funeral director or funeral establishment shall provide a signed written statement to a crematory establishment that the human remains delivered to the crematory establishment were positively identified as the deceased

1 person listed on the cremation authorization form by the
2 authorizing agent or a representative of the authorizing agent
3 delegated as provided by Section 716.053.

4 (b) An authorizing agent or the delegated representative of
5 the agent may identify a deceased person in person or by photograph.

6 [Sections 716.105–716.150 reserved for expansion]

7 SUBCHAPTER D. CREMATION PROCEDURES

8 Sec. 716.151. CREMATION CONTAINERS. (a) A person shall
9 deliver deceased human remains to a crematory establishment in a
10 cremation container that:

11 (1) is made of combustible materials suitable for
12 cremation;

13 (2) provides a complete covering of the body;

14 (3) is resistant to leakage or spillage;

15 (4) is rigid for easy handling; and

16 (5) protects the health and safety of crematory
17 personnel.

18 (b) A crematory establishment may not remove human remains
19 from a cremation container and must cremate the cremation container
20 with the human remains unless the authorizing agent requests
21 otherwise in writing.

22 (c) Except as provided by this section, a crematory
23 establishment may not:

24 (1) require that deceased human remains be placed in a
25 casket before cremation or that remains be cremated in a casket; or

26 (2) refuse to accept for cremation remains that have
27 not been placed in a casket.

1 Sec. 716.152. CREMATION PROCESS. (a) A crematory
2 establishment is not required to accept a cremation container that
3 evidences leakage of human body fluids.

4 (b) A person other than a crematory establishment employee,
5 the authorizing agent, or a representative delegated as provided by
6 Section 716.053 may not be present in a crematory area during:

7 (1) the cremation of deceased human remains; or
8 (2) the removal of the remains from the cremation
9 chamber.

10 (c) Immediately before placing deceased human remains in a
11 cremation chamber, a crematory establishment employee must:

12 (1) verify the identity of the human remains; and
13 (2) remove the identification label from the cremation
14 container and place the label near the cremation chamber control
15 panel until the cremation process is complete.

16 (d) The crematory establishment shall remove all
17 recoverable cremation residue from the cremation chamber following
18 cremation and pulverize any bone fragments as necessary. The
19 crematory establishment shall remove and dispose of any other
20 material included with the residue.

21 Sec. 716.153. SIMULTANEOUS CREMATION. (a) A crematory
22 establishment may not simultaneously cremate the deceased human
23 remains of more than one person in the same cremation chamber unless
24 authorized in writing by the authorizing agent.

25 (b) A crematory establishment is not civilly or criminally
26 liable for commingling human remains during cremation if an
27 authorizing agent provides a signed written statement authorizing

1 the simultaneous cremation.

2 Sec. 716.154. PACEMAKERS. (a) A crematory establishment
3 may not cremate deceased human remains containing a pacemaker or
4 other potentially hazardous implant.

5 (b) An authorizing agent who knows of the existence of a
6 pacemaker or other potentially hazardous implant in deceased human
7 remains shall notify the funeral director or crematory
8 establishment. The authorizing agent shall ensure that the
9 pacemaker or hazardous implant is removed from the remains before
10 cremation.

11 (c) If an authorizing agent discloses to the funeral
12 director on the cremation authorization form the presence of a
13 pacemaker or other potentially hazardous implant in the deceased
14 human remains, the funeral director must ensure that the pacemaker
15 or hazardous implant is removed from the remains before delivering
16 the remains to the crematory establishment.

17 (d) An authorizing agent or funeral director that violates
18 Subsection (b) or (c) is liable to the crematory establishment in a
19 civil action for any damages resulting from cremation of the
20 remains containing the pacemaker or other potentially hazardous
21 implant.

22 Sec. 716.155. TEMPORARY CONTAINER OR URN. (a) A crematory
23 establishment shall place properly identified cremated remains in a
24 temporary container or urn unless otherwise instructed in writing
25 by the authorizing agent.

26 (b) The crematory establishment may not commingle the
27 cremated remains with other cremated remains or include any other

1 object in the temporary container or urn unless authorized in
2 writing by the authorizing agent.

3 (c) A crematory establishment shall place a label on a
4 temporary container disclosing that the temporary container is not
5 intended for the permanent storage of cremated remains in a niche,
6 crypt, cremation interment container, or interment space.

7 (d) A crematory establishment shall return all cremated
8 remains to an authorizing agent or a representative delegated as
9 provided by Section 716.053. Any cremated remains that do not fit
10 in a temporary container or urn must be returned to the authorizing
11 agent or representative in a separate temporary container that
12 meets the requirements of this section.

13 (e) A crematory establishment may ship cremated remains
14 only by a method having an internal tracking system that provides a
15 receipt signed by the person accepting delivery. The outside of the
16 box in which the cremated remains are placed for shipment must
17 display a label that includes:

18 (1) the deceased person's name;
19 (2) the name of the crematory establishment; and
20 (3) a warning that the container is temporary, if a
21 temporary container is used.

22 Sec. 716.156. RELEASE OF REMAINS. (a) A crematory
23 establishment shall:

24 (1) release the cremated remains to the individual
25 authorized to receive the remains on the cremation authorization
26 form; or

27 (2) ship the remains to the shipping address provided

1 by the authorizing agent on the cremation authorization form not
2 later than the 30th day following the date of cremation.

3 (b) A crematory establishment shall furnish to an
4 individual who receives the cremated remains a receipt that
5 includes:

6 (1) the date and time of release;

7 (2) the printed name of the individual;

8 (3) if applicable, the name of the funeral
9 establishment or other entity who contracted to provide for the
10 cremation;

11 (4) the printed name of the person who released the
12 cremated remains; and

13 (5) the name of the deceased person.

14 (c) A crematory establishment shall retain a copy of the
15 receipt required by this section in the crematory establishment's
16 records.

17 [Sections 716.157-716.200 reserved for expansion]

18 SUBCHAPTER E. DISPUTES AND LIABILITY

19 Sec. 716.201. CREMATION DISPUTE. (a) Unless a court order
20 or other suitable confirmation indicates a dispute has been
21 resolved or settled, a crematory establishment, funeral
22 establishment, cemetery, or other person may refuse to accept
23 deceased human remains or to perform a cremation if the crematory
24 establishment, funeral establishment, cemetery, or person is aware
25 of:

26 (1) a dispute concerning the cremation of the remains;

27 (2) a reasonable basis for questioning any

1 representation made by the authorizing agent; or

2 (3) any other lawful reason for refusing to cremate
3 the remains.

4 (b) A crematory establishment, funeral establishment,
5 cemetery, or other person aware of any dispute concerning the
6 release or disposition of the cremated remains may refuse to
7 release the remains until:

8 (1) the dispute has been resolved or settled; or

9 (2) authorized by court order to release or dispose of
10 the remains.

11 (c) A crematory establishment, funeral establishment,
12 cemetery, or other person is not liable in a civil action for
13 refusing to cremate human remains in accordance with Subsection
14 (a) or for refusing to release or dispose of or releasing or
15 disposing of cremated remains in accordance with Subsection (b).

16 Sec. 716.202. LIABILITY OF AUTHORIZING AGENT. An
17 authorizing agent who signs a cremation authorization form is
18 subject to Section 711.002(f) and attests to the truthfulness of
19 the facts set forth in the form, including the identity of the
20 deceased person and the agent's authority under this chapter.

21 Sec. 716.203. LIABILITY OF CREMATORY ESTABLISHMENT,
22 FUNERAL ESTABLISHMENT, FUNERAL DIRECTOR, CEMETERY, OR OTHER
23 PERSON. (a) A crematory establishment, funeral establishment,
24 funeral director, cemetery, or other person that contracts to
25 provide for a cremation, cremates human remains, or releases or
26 disposes of the cremated remains as provided on a cremation
27 authorization form is not criminally or civilly liable for

1 performing the actions authorized.

2 (b) A crematory establishment is not criminally or civilly
3 liable for disposing of cremated remains after the 60th day after
4 the date of cremation in accordance with this chapter if:

5 (1) the authorizing agent did not authorize shipment
6 of the remains or provide a shipping address on the authorization
7 form; and

8 (2) the authorizing agent did not claim the remains
9 before the 61st day following the date of cremation.

10 (c) A crematory establishment is not liable for damages in a
11 civil action for any valuables delivered with human remains if the
12 crematory establishment exercises reasonable care in protecting
13 the valuables.

14 (d) A crematory establishment, funeral establishment,
15 funeral director, cemetery, or other person is not liable in a civil
16 action for:

17 (1) the acts of a crematory establishment employee
18 that are outside the scope of the employee's authority or
19 responsibility; or

20 (2) representations made by the authorizing agent in
21 the cremation authorization form.

22 [Sections 716.204–716.250 reserved for expansion]

23 SUBCHAPTER F. RECORDS

24 Sec. 716.251. CREMATORY ESTABLISHMENT RECORDS. (a) A
25 crematory establishment shall maintain a record at its place of
26 business of each cremation. The record must contain:

27 (1) the name of the deceased person;

1 (2) the date of the cremation;

2 (3) the final disposition of the cremated remains; and

3 (4) any other document required by this chapter.

4 (b) A record must be kept on file at least until the fifth
5 anniversary of the cremation.

6 [Sections 716.252–716.300 reserved for expansion]

7 SUBCHAPTER G. DISPOSITION OF REMAINS

8 Sec. 716.301. TRANSPORT OF CREMATED REMAINS. On delivery
9 of the cremated remains by a crematory establishment, an
10 authorizing agent or the representative delegated by the
11 authorizing agent as provided by Section 716.053 may transport the
12 remains without a permit in any manner in this state and finally
13 dispose of the remains in accordance with this subchapter.

14 Sec. 716.302. DISPOSITION OF CREMATED REMAINS. (a) An
15 authorizing agent shall provide to a crematory establishment a
16 signed written statement disclosing the final disposition of the
17 cremated remains, if known. The crematory establishment shall
18 retain a copy of the statement in the crematory establishment's
19 records.

20 (b) The authorizing agent is responsible for disposing of
21 cremated remains.

22 (c) Not earlier than the 60th day following the date of
23 cremation, if the authorizing agent or the agent's representative
24 has not specified the final disposition of or claimed the cremated
25 remains, the crematory establishment may dispose of the cremated
26 remains in accordance with this subchapter. The crematory
27 establishment shall retain a record of the disposition in the

1 crematory establishment's records.

2 (d) An authorizing agent is responsible for all reasonable
3 expenses incurred in disposing of the cremated remains under
4 Subsection (c).

5 (e) A person may dispose of cremated remains only:

6 (1) in a crypt, niche, grave, or scattering area of a
7 dedicated cemetery;

8 (2) by scattering the remains over uninhabited public
9 land, sea, or other public waterways in accordance with Section
10 716.304; or

11 (3) on private property as directed by the authorizing
12 agent with the written consent of the property owner in accordance
13 with Section 716.304.

14 Sec. 716.303. COMMINGLING OF REMAINS. (a) Unless
15 authorized in writing by the authorizing agent, a person may not:

16 (1) dispose of or scatter cremated remains in a manner
17 or at a location that commingles the remains with other cremated
18 remains, except by air over a scattering area or by sea; or

19 (2) except as provided by Subsection (b), place the
20 cremated remains of more than one deceased person in the same closed
21 container.

22 (b) A person may place the cremated remains of family
23 members or other persons cremated simultaneously in accordance with
24 Section 716.153 in a container designed for the remains of more than
25 one deceased person.

26 Sec. 716.304. SCATTERING REMAINS. A person may scatter
27 cremated remains over uninhabited public land, a public waterway or

1 sea, or on the private property of a consenting owner, if the
2 remains are reduced to a particle size of one-eighth inch or less.
3 Cremated remains must be removed from the container before the
4 remains are scattered.

5 [Sections 716.305-716.350 reserved for expansion]

6 SUBCHAPTER H. PENALTY

7 Sec. 716.351. CRIMINAL PENALTY. (a) A person or an
8 employee of a person commits an offense if the person or employee:

9 (1) cremates human remains without receipt of a
10 cremation authorization form signed by an authorizing agent;

11 (2) signs a cremation authorization form with actual
12 knowledge that the form contains false or incorrect information; or

13 (3) represents to the public that the person may
14 cremate human remains without being licensed as provided by
15 Subchapter N, Chapter 651, Occupations Code.

16 (b) An offense under Subsection (a) is a Class B
17 misdemeanor.

18 SECTION 3. Section 651.5061, Occupations Code, is amended
19 to read as follows:

20 Sec. 651.5061. WAIVER OF HEARING BY FUNERAL OR CREMATORY
21 ESTABLISHMENT. A funeral or crematory establishment alleged to have
22 violated this chapter or a rule adopted under this chapter may waive
23 the right to a hearing as provided by Section 651.506 by written
24 notification to the commission.

25 SECTION 4. Subchapter K, Chapter 651, Occupations Code, is
26 amended by adding Section 651.508 to read as follows:

27 Sec. 651.508. ENFORCEMENT OF LAW REGULATING CREMATORIES.

1 For purposes of this subchapter, a person regulated under this
2 chapter that violates Chapter 716, Health and Safety Code, violates
3 this chapter. An owner or operator of a crematory establishment
4 licensed under Subchapter N is responsible for the conduct of the
5 business of the crematory establishment under Chapter 716, Health
6 and Safety Code.

7 SECTION 5. Subchapter L, Chapter 651, Occupations Code, is
8 amended by adding Section 651.559 to read as follows:

9 Sec. 651.559. ENFORCEMENT OF LAW REGULATING CREMATORIES.
10 For purposes of this subchapter, a person regulated under this
11 chapter that violates Chapter 716, Health and Safety Code, violates
12 this chapter. An owner or operator of a crematory establishment
13 licensed under Subchapter N is responsible for the conduct of the
14 business of the crematory establishment under Chapter 716, Health
15 and Safety Code.

16 SECTION 6. Section 651.601, Occupations Code, is amended by
17 adding Subsection (a-1) to read as follows:

18 (a-1) The commission may bring an action for appropriate
19 injunctive relief against a crematory establishment that violates
20 this chapter or a rule adopted under this chapter.

21 SECTION 7. The heading to Subchapter N, Chapter 651,
22 Occupations Code, is amended to read as follows:

23 SUBCHAPTER N. REGISTRATION AND LICENSING REQUIREMENTS:

24 CEMETERIES AND CREMATORIES

25 SECTION 8. Section 651.651, Occupations Code, is amended to
26 read as follows:

27 Sec. 651.651. DEFINITIONS [~~DEFINITION~~]. In this

subchapter:

(1) "Cremation" means the irreversible process of reducing human remains to bone fragments through direct flame, extreme heat, and evaporation. The term may include pulverization, which is the process of reducing identifiable bone fragments after cremation and processing granulated particles by manual or mechanical means.

(2) "Crematory establishment" means a business licensed under this subchapter to operate a crematory and to perform cremation services.

(3) [7] "Perpetual [~~perpetual~~] care cemetery" means a person who notifies the Texas Department of Banking of its intent to operate a perpetual care cemetery in this state under Section 712.0031, Health and Safety Code.

SECTION 9. Section 651.652(b), Occupations Code, is amended to read as follows:

(b) This subchapter does not apply to the maintenance of a cemetery [~~or crematory~~], including maintenance of any goods or services provided under Chapter 711 or 712, Health and Safety Code.

SECTION 10. The heading to Section 651.653, Occupations Code, is amended to read as follows:

Sec. 651.653. CEMETERY [~~OR — CREMATORY~~] REGISTRATION REQUIREMENTS.

SECTION 11. Sections 651.653(a), (b), and (d), Occupations Code, are amended to read as follows:

(a) A person may not conduct a cemetery [~~or crematory~~] business in this state unless an individual who is the owner or

operator of the cemetery [~~or crematory~~] registers with the commission.

(b) A cemetery [~~or crematory~~] may be owned by a person who is not registered under this chapter.

(d) The individual must:

(1) explain the purpose of the cemetery [~~or crematory~~] business;

(2) provide the address and other contact information for the business; and

(3) identify the individual owner or operator who is registering.

SECTION 12. The heading to Section 651.655, Occupations Code, is amended to read as follows:

Sec. 651.655. RENEWAL OF CEMETERY [~~OR CREMATORY~~] REGISTRATION.

SECTION 13. Section 651.655(c), Occupations Code, is amended to read as follows:

(c) If the registration is expired for longer than 30 days, the registrant may not renew the registration, and the cemetery [~~or crematory~~] may not be operated, until the owner or operator registers as provided by Section 651.653.

SECTION 14. Subchapter N, Chapter 651, Occupations Code, is amended by adding Sections 651.656, 651.657, and 651.658 to read as follows:

Sec. 651.656. CREMATORY ESTABLISHMENT LICENSE REQUIRED.

(a) A person may not conduct a crematory business in this state unless the person who is the owner or operator of the crematory

1 holds a crematory establishment license issued by the commission.

2 (b) A person may not hold a crematory establishment license
3 unless the person holds a funeral establishment license or owns or
4 operates a perpetual care cemetery.

5 (c) Subsection (b) does not apply to the owner or operator
6 of a crematory registered with the commission on September 1, 2003.

7 (d) The commission by rule shall establish the fee for a
8 crematory establishment license under this subchapter in an amount
9 sufficient to cover the costs of regulating crematory
10 establishments under this subchapter, including discipline and
11 investigation of complaints.

12 Sec. 651.657. CREMATORY ESTABLISHMENT LICENSE APPLICATION.

13 (a) An applicant for a crematory establishment license must submit
14 a written license application to the commission and pay the
15 application fee.

16 (b) An application for a license or renewal of a license as a
17 crematory establishment must include:

18 (1) the full business name of the crematory
19 establishment;

20 (2) the address of:

21 (A) the applicant if the business is owned by an
22 individual;

23 (B) each partner if the business is a
24 partnership;

25 (C) each member of the board of directors if the
26 business is an association; or

27 (D) each shareholder who owns more than 25

1 percent of the corporate stock and each officer and director if the
2 business is a corporation;

3 (3) a statement from each individual named under
4 Subdivision (2) that details:

5 (A) the individual's business experience for the
6 previous 10 years;

7 (B) any felony or misdemeanor conviction of the
8 individual;

9 (C) any involvement of the individual as a
10 defendant in a civil action involving allegations of fraud; and

11 (D) a suspension by this state or any other state
12 of any license related to funeral directing or the operation of a
13 cemetery or crematory;

14 (4) the location of the crematory; and

15 (5) the date the business was established.

16 (c) An application for a license or renewal of a license
17 must be on a form furnished by the commission.

18 Sec. 651.658. CREMATORY ESTABLISHMENT LICENSE RENEWAL AND
19 ANNUAL REPORT; PENALTY. (a) To renew a crematory establishment
20 license, the crematory establishment must annually:

21 (1) file a report with the commission that lists the
22 number of cremations performed at the crematory during the previous
23 year;

24 (2) pay the license renewal fee;

25 (3) provide the information required by Section
26 651.657 or a written statement that the information has not changed
27 since previously provided; and

1 (4) provide proof satisfactory to the commission that
2 the owner or operator of the crematory is trained and certified by a
3 reputable organization approved by the commission, such as the
4 Cremation Association of North America.

5 (b) The commission shall mail written notice to a license
6 holder of the impending expiration of the license not later than the
7 30th day before the expiration date of the license. The notice must
8 state that to renew the license, the license holder must pay the
9 renewal fee not later than the date on which the license expires.

10 (c) A license holder who fails to pay the renewal fee on or
11 before the expiration date is subject to a late payment penalty
12 equal to the amount of the renewal fee.

13 (d) A person may not renew a license that has been expired
14 for more than 30 days. A person holding a license that has been
15 expired for more than 30 days must apply for a new license as
16 required by this subchapter to conduct a crematory business.

17 (e) The commission shall grant an extension for filing the
18 annual report required by this section on the written request of a
19 crematory establishment for good cause. An extension may not
20 exceed 60 days. The commission may grant additional extensions for
21 good cause.

22 (f) The commission shall impose a \$100 late fee for each day
23 a crematory establishment fails to submit the annual report
24 required by this section if an extension has not been granted.

25 SECTION 15. Section 711.006, Health and Safety Code, is
26 repealed.

27 SECTION 16. (a) Not later than November 1, 2003, the Texas

1 Funeral Service Commission shall:

2 (1) develop the crematory application form required
3 for licensing and license renewal under Section 651.657,
4 Occupations Code, as added by this Act;

5 (2) adopt the rules and minimum standards required by
6 Section 716.002, Health and Safety Code, as added by this Act;

7 (3) establish the procedures and qualifications for a
8 crematory establishment license as required by Subchapter N,
9 Chapter 651, Occupations Code, as amended by this Act; and

10 (4) determine the organizations approved to train and
11 certify the owner or operator of the crematory as required by
12 Section 651.658(a)(4), Occupations Code, as added by this Act.

13 (b) An owner or operator of a crematory that is registered
14 as required by Subchapter N, Chapter 651, Occupations Code, before
15 the effective date of this Act may continue to conduct a crematory
16 business in this state after that date in the same manner as if the
17 crematory held a crematory establishment license under Subchapter
18 N, Chapter 651, Occupations Code, as amended by this Act.

19 (c) The owner or operator of a crematory establishment that
20 is registered as required by Subchapter N, Chapter 651, Occupations
21 Code, before the effective date of this Act shall comply with the
22 licensing renewal and annual report requirements of Section
23 651.658, Occupations Code, as added by this Act, on the first
24 renewal of the registration that occurs after December 31, 2003.

25 (d) Subchapter N, Chapter 651, Occupations Code, as amended
26 by this Act, and Chapter 716, Health and Safety Code, as added by
27 this Act, apply only to the operation of a crematory establishment

1 on or after January 1, 2004. The operation of a crematory
2 establishment before January 1, 2004, is governed by the law in
3 effect immediately before the effective date of this Act, and that
4 law is continued in effect for this purpose.

5 (e) The repeal by this Act of Section 711.006, Health and
6 Safety Code, applies only to a cause of action that accrues on or
7 after January 1, 2004. A cause of action that accrues before January
8 1, 2004, is governed by the law in effect at the time the cause of
9 action accrues, and that law is continued in effect for this
10 purpose.

11 SECTION 17. This Act takes effect September 1, 2003, except
12 that Section 15 of this Act takes effect January 1, 2004.