

By: Coleman, Hochberg

H.B. No. 3739

Substitute the following for H.B. No. 3739:

By: Kolkhorst

C.S.H.B. No. 3739

A BILL TO BE ENTITLED

AN ACT

1  
2 relating to regulation of and access to certain cemeteries;  
3 providing penalties.

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

5 SECTION 1. Section 711.012(b), Health and Safety Code, is  
6 amended to read as follows:

7 (b) The Texas Funeral Service Commission may enforce  
8 Section 711.0521 and may adopt rules, establish procedures, and  
9 prescribe forms to enforce and administer Sections 711.003,  
10 711.008, 711.010, 711.011, 711.021-711.035, 711.038, 711.041,  
11 711.042, 711.061, and 711.062 relating to cemeteries that are not  
12 perpetual care cemeteries.

13 SECTION 2. Section 711.041, Health and Safety Code, is  
14 amended to read as follows:

15 Sec. 711.041. ACCESS TO CEMETERY. (a) Any person who  
16 wishes to visit a cemetery or private burial grounds for which no  
17 public ingress or egress is available shall have the right to  
18 reasonable ingress and egress for the purpose of visiting the  
19 cemetery or private burial grounds. This right of access extends  
20 only to visitation during the ~~[reasonable]~~ hours determined by the  
21 owner or owners of the lands under Subsection (b) or at a reasonable  
22 time as provided by Subsection (c) and only for purposes usually  
23 associated with cemetery visits.

24 (b) The owner or owners of the lands surrounding the

1 cemetery or private burial grounds may designate the routes of  
2 reasonable ingress and egress and reasonable hours of availability.

3 (c) At a time other than the time provided by Subsection  
4 (b), the owner or owners of the lands surrounding a cemetery or  
5 private burial grounds must allow a person to enter and exit the  
6 owner's land for the purpose of visiting the cemetery or private  
7 burial grounds if:

8 (1) the person provides written notice to the owner or  
9 owners of the lands surrounding the cemetery or private burial  
10 grounds of the person's visit;

11 (2) the person provides the notice required by  
12 Subdivision (1) not later than the 14th day before the date the  
13 person wishes to visit the cemetery; and

14 (3) the time of the visit is reasonable.

15 SECTION 3. Subchapter D, Chapter 711, Health and Safety  
16 Code, is amended by adding Section 711.0515 to read as follows:

17 Sec. 711.0515. INJUNCTIVE RELIEF. In addition to bringing  
18 an action under Section 711.051, the attorney general at the  
19 request of the Texas Funeral Service Commission may bring an action  
20 for injunctive relief to enforce this chapter or a rule or order  
21 adopted by the commission under this chapter.

22 SECTION 4. Subchapter D, Chapter 711, Health and Safety  
23 Code, is amended by adding Section 711.0521 to read as follows:

24 Sec. 711.0521. CRIMINAL PENALTY FOR INTERFERING WITH A  
25 PERSON'S RIGHT TO REASONABLE INGRESS AND EGRESS. (a) A person  
26 commits an offense if the person interferes with another person's  
27 right to reasonable ingress and egress under Section 711.041.

1           (b) An offense under this section is a Class C misdemeanor.

2           SECTION 5. The change in law made by this Act applies only  
3 to an offense committed on or after the effective date of this Act.  
4 An offense committed before the effective date of this Act is  
5 covered by the law in effect when the offense was committed, and the  
6 former law is continued in effect for that purpose. For purposes of  
7 this section, an offense was committed before the effective date of  
8 this Act if any element of the offense was committed before that  
9 date.

10           SECTION 6. This Act takes effect September 1, 2009.