

House Bill 2029

Ordered printed by the Speaker pursuant to House Rule 12.00A (5). Pre-session filed (at the request of House Interim Committee on Revenue)

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Requires State Mortuary and Cemetery Board to resolve complaint within 180 days from receipt of investigator's report.

Allows board to grant one 30-day extension of time for investigator to make report.

A BILL FOR AN ACT

1
2 Relating to investigations by State Mortuary and Cemetery Board; creating new provisions; and
3 amending ORS 692.180.

4 **Be It Enacted by the People of the State of Oregon:**

5 **SECTION 1.** ORS 692.180 is amended to read:

6 692.180. (1) Upon complaint or upon its own motion, the State Mortuary and Cemetery Board
7 may investigate any complaint concerning any person, licensee or holder of a certificate of authority
8 made by any person or by the board. If the board finds any of the causes described in this section
9 in regard to any person, licensee or applicant or the holder of a certificate of authority, the board
10 may impose a civil penalty of not more than \$1,000 for each violation, suspend or revoke a license
11 to practice or to operate under this chapter or refuse to grant or renew a license. The causes are
12 as follows:

13 (a) Misrepresentation in the conduct of business or in obtaining a license.

14 (b) Fraudulent or dishonest conduct, when the conduct bears a demonstrable relationship to fu-
15 neral service practice, embalming practice or the operation of cemeteries or crematoriums.

16 (c) Except as provided in this paragraph, solicitation of human dead bodies by the licensee or
17 any agent, assistant or employee of the licensee, either before or after death. This paragraph does
18 not apply to:

19 (A) Activities permissible under ORS 97.923 to 97.949; or

20 (B) The sale, in accordance with provisions of the Insurance Code, of prearranged funeral or
21 cemetery merchandise or services, or any combination thereof, to be funded by the contemporaneous
22 or subsequent assignment of a life insurance policy or an annuity contract.

23 (d) Offensive treatment of dead human bodies or a body in the person's custody has been dis-
24 posed of in violation of ORS chapter 432 or rules adopted pursuant thereto.

25 (e) Aiding or abetting a person who is not a licensee or an apprentice in any act involving the
26 disposition of dead human bodies before the bodies undergo cremation, entombment or burial or
27 before the bodies are transported out of the State of Oregon.

28 (f) Sale or reuse of any casket or body container that has been previously utilized for the
29 placement of a deceased human body. This does not include use of a rental cover as defined in ORS
30 692.010.

NOTE: Matter in **boldfaced** type in an amended section is new; matter [*italic and bracketed*] is existing law to be omitted. New sections are in **boldfaced** type.

1 (g) Violation of any of the provisions of this chapter or any rules adopted under this chapter.

2 (h) Violation of any provision of ORS [97.929 or] 97.937 or regulations adopted by the Federal
3 Trade Commission regulating funeral industry practices.

4 (i) Conviction of a crime, when the crime bears a demonstrable relationship to funeral service
5 practice, embalming practice or the operation of cemeteries or crematoriums. A copy of the record
6 of the conviction certified to by the clerk of the court entering the conviction shall be conclusive
7 evidence of the conviction.

8 (j) Violation of ORS chapter 97 as it relates to disposition of human bodies and to cemeteries.

9 (k) Refusing to surrender promptly the custody of a dead human body, upon the express order
10 of the person lawfully entitled to the custody of the body.

11 (L) Acting as the legal representative of any deceased person for whom the licensee has ren-
12 dered services governed by this chapter. This subsection does not prohibit a licensee from acting
13 as the legal representative of a deceased relative or a deceased licensee if the deceased licensee
14 was a partner, employee or employer in the licensee's practice.

15 (m) Failure to pay any civil penalty imposed by the board within 10 days after the order is en-
16 tered or, if appealed, within 10 days after the order is sustained on appeal.

17 (2) All amounts recovered under this section shall be deposited in accordance with ORS 692.375.

18 (3) Civil penalties under this section shall be imposed as provided in ORS 183.745.

19 (4)(a) Upon receipt of a complaint, the board shall conduct an investigation as described under
20 ORS 676.165, **except that the board may grant only one 30-day extension of time for the in-**
21 **vestigator to make the report.**

22 **(b) If the board does not resolve the complaint within 180 days from receipt of the in-**
23 **vestigator's report, the board shall dismiss the complaint.**

24 (5) Information that the board obtains as part of an investigation into licensee or applicant
25 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving
26 licensee or applicant conduct is confidential as provided under ORS 676.175.

27 **SECTION 2. The amendments to ORS 692.180 by section 1 of this 2007 Act apply to com-**
28 **plaints made by persons or by the State Mortuary and Cemetery Board on or after the ef-**
29 **fective date of this 2007 Act.**

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