

A-Engrossed
Senate Bill 872

Ordered by the Senate April 4
Including Senate Amendments dated April 4

Printed pursuant to Senate Interim Rule 213.28 by order of the President of the Senate in conformance with pre-session filing rules, indicating neither advocacy nor opposition on the part of the President (at the request of Governor Tina Kotek for State Mortuary and Cemetery Board)

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. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: The Act modifies SMCB laws. (Flesch Readability Score: 66.4).

Modifies laws related to the State Mortuary and Cemetery Board's authority to impose disciplinary actions on applicants and those subject to the board's regulatory authority.

A BILL FOR AN ACT

1
2 Relating to disciplinary actions imposed by the State Mortuary and Cemetery Board; creating new
3 provisions; amending ORS 692.180, 692.230, 692.265 and 692.270; and repealing ORS 692.260.

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 may*
7 *investigate a complaint made by any person or by the board. If the board finds any of the causes de-*
8 *scribed in this section in regard to any person, licensee or applicant or the holder of a certificate of*
9 *authority, the board may impose a civil penalty of not more than \$1,000 for each violation, suspend or*
10 *revoke a license to practice or to operate under this chapter or refuse to grant or renew a license. The*
11 *causes are as follows:]*

12 **(1) An applicant or person subject to the authority of the State Mortuary and Cemetery**
13 **Board commits a prohibited act if the person engages in:**

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

15 (b) Fraudulent or dishonest conduct, when the conduct bears a demonstrable relationship to fu-
16 neral service practice, embalming practice or the operation of cemeteries, crematoriums or other
17 facilities for final disposition of human remains.

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

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

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

25 (d) Offensive treatment of dead human bodies or evidence that a body in the person's custody
26 has been disposed of in violation of ORS chapter 432 or rules adopted pursuant thereto.

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 (e) Aiding or abetting a person who is not a licensee or a trainee in any act involving the dis-
2 position of dead human bodies before the bodies undergo final disposition or before the bodies are
3 transported out of the State of Oregon.

4 (f) Sale or reuse of any casket or body container that has been previously utilized for the
5 placement of a deceased human body. This does not include use of a rental cover as defined in ORS
6 692.010.

7 (g) Violation of any of the provisions of **ORS chapter 97 or 432 or this chapter or violation**
8 **of any rules adopted [under this chapter] by the board.**

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

11 (i) Conviction of a crime, when the crime bears a demonstrable relationship to funeral service
12 practice, embalming practice, death care consultant practice or the operation of cemeteries,
13 crematoriums or other facilities for final disposition of human remains. A certified copy of the con-
14 viction is conclusive evidence of the conviction.

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

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

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

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

24 (n) Impairment as defined in ORS 676.303.

25 **(2) If the board finds that a person has committed an act described in this section the**
26 **board may, in the manner provided in ORS chapter 183 for contested cases, take any of the**
27 **following disciplinary actions:**

28 **(a) Issue a reprimand.**

29 **(b) Place limitations on a license to prohibit a licensee from performing certain actions**
30 **or from engaging in the scope of practice in a particular manner for a period of time deter-**
31 **mined by the board.**

32 **(c) Place a licensee on probation for a period of time determined by the board and subject**
33 **to any conditions specified by the board including supervision by the board or a third party**
34 **selected by the board.**

35 **(d) Suspend a license for a period of time determined by the board.**

36 **(e) Revoke a license for a period of time determined by the board, including permanent**
37 **revocation.**

38 **(f) Refuse to grant or renew a license.**

39 **(g) Assess a civil penalty not to exceed \$5,000.**

40 **(3)(a) In addition to the disciplinary action authorized by subsection (2) of this section,**
41 **if the board has reasonable cause to believe that any person has engaged, is engaging or is**
42 **about to engage in any violation of any provision of this chapter or any rule or order adopted**
43 **under this chapter, the board may issue an order of emergency suspension without a hearing**
44 **or an order directed to the person to cease and desist from the violation or threatened vio-**
45 **lation and take corrective action.**

1 (b) The board shall mail a copy of an order issued under this subsection to the person
2 by first class mail with certificate of mailing.

3 (c) An order issued under this subsection must include the following:

4 (A) A statement of the facts constituting the violation;

5 (B) The effective date of the order; and

6 (C) A notice to the person named in the order of the right to request a hearing and that
7 any hearing request for an emergency suspension action must be received by the board no
8 later than 90 days after the date the order was mailed by the board. For a cease and desist
9 order, a request for a hearing must be received by the board no later than 21 days after the
10 date the order was mailed by the board.

11 (d) If the board receives a timely request for a hearing concerning an order issued under
12 paragraph (c) of this subsection, the board shall schedule the hearing no later than 30 days
13 after receiving the request. The board shall mail written notice of the hearing to the person
14 by first class mail with certificate of mailing no later than seven days before the scheduled
15 hearing date.

16 (e) In the event of a contested case hearing, the civil penalties assessed in the cease and
17 desist order are suspended until issuance of a final order, but the remaining provisions of
18 the cease and desist order shall remain in full force and effect until issuance of the final
19 order. After the hearing, the board shall enter a final order vacating, modifying or affirming
20 the cease and desist order. A cease and desist order described in this subsection becomes
21 final if the person does not file a timely request for a hearing concerning the order or fails
22 to appear at the requested hearing as scheduled.

23 (f) A person aggrieved by a cease and desist order of the board that was the subject of
24 a timely application for hearing shall be entitled to judicial review of the cease and desist
25 order under ORS chapter 183.

26 (g) A judgment of a reviewing court under ORS chapter 183 does not bar the board from
27 thereafter vacating or modifying a cease and desist order involved in the proceeding for re-
28 view, or entering any new order, for a proper cause that was not decided by the reviewing
29 court.

30 (h) The board may file an injunction against a person for failure to comply with a cease
31 and desist order.

32 (i) An emergency suspension order is an interim order and not a final order.

33 (j) The issuance of a board order under this subsection is subject to ORS 183.413 to
34 183.497.

35 [(2)] (4) All amounts recovered under this section shall be deposited in the State Mortuary and
36 Cemetery Board Account established under ORS 692.375.

37 [(3)] (5) Civil penalties under this section shall be imposed as provided in ORS 183.745.

38 [(4)] (6) Upon receipt of a complaint, **or upon its own motion**, the board shall conduct an in-
39 vestigation as described under ORS 676.165.

40 [(5)] (7) Information that the board obtains as part of an investigation into licensee or applicant
41 conduct or as part of a contested case proceeding, consent order or stipulated agreement involving
42 licensee or applicant conduct is confidential as provided under ORS 676.175.

43 **SECTION 2.** ORS 692.230 is amended to read:

44 692.230. (1) The State Mortuary and Cemetery Board may [*suspend or revoke the registration of*
45 *a trainee, after notice and upon hearing,*] **take disciplinary action as described in ORS 692.180 if**

1 the board finds *[any of the causes specified in ORS 692.180 in regard to the trainee]* **that a trainee**
2 **committed a prohibited act described in ORS 692.180.**

3 (2) A trainee whose registration has been suspended or revoked **under ORS 692.180** may apply
4 for reregistration within one year after **completion of** the suspension or revocation **period**, but the
5 board *[shall]* **may** not allow more than two reregistrations. When the circumstances warrant, the
6 board may allow a trainee credit under a reregistration for time actually served under a previous
7 registration. However, if the previous registration has been suspended or revoked under *[subsection*
8 *(1) of this section]* **ORS 692.180**, the board *[shall]* **may** not provide credit for more than 75 percent
9 of the time previously served.

10 (3) Upon receipt of a complaint, **or upon its own motion**, the board shall conduct an investi-
11 gation as described under ORS 676.165.

12 (4) Information that the board obtains as part of an investigation into trainee conduct or as part
13 of a contested case proceeding, consent order or stipulated agreement involving trainee conduct is
14 confidential as provided under ORS 676.175.

15 **SECTION 3.** ORS 692.265 is amended to read:

16 692.265. (1) If the State Mortuary and Cemetery Board proposes to *[impose a civil penalty or to*
17 *revoke, suspend or refuse to issue or renew any license or certificate]* **take disciplinary action as**
18 **described in ORS 692.180**, the board shall accord an opportunity for hearing as provided in ORS
19 chapter 183.

20 (2) Adoption of rules, conduct of hearings and issuance of orders and judicial review of rules
21 and orders shall be as provided in ORS chapter 183.

22 **SECTION 4.** ORS 692.270 is amended to read:

23 692.270. (1) The State Mortuary and Cemetery Board shall issue a certificate of removal regis-
24 tration to a funeral establishment licensed in another state contiguous to Oregon with laws sub-
25 stantially similar to the provisions of this section for the limited purpose of removing dead human
26 bodies from Oregon, prior to submitting a report of death, if the establishment that will make the
27 removals applies to the board for a certificate of removal registration on a form provided by the
28 board. The application fee established under ORS 692.160 shall accompany the application. A cer-
29 tificate issued under this subsection expires upon a change of ownership of the funeral establish-
30 ment.

31 (2) For purposes of this section, each branch of a registrant's funeral establishment is a separate
32 establishment and must be registered as a fixed place of business.

33 (3) Notwithstanding ORS 692.025 (1) and 692.045, a funeral service practitioner who files reports
34 of death in another state may file an Oregon report of death if the funeral service practitioner is
35 employed by a licensed funeral establishment registered with the board under this section.

36 (4) The conduct of a funeral service practitioner or any other person employed by or acting on
37 behalf of a removal registrant shall be the direct responsibility of the holder of a certificate of re-
38 moval registration.

39 (5) For any of the *[causes]* **prohibited acts** described in ORS 692.180, or for violation of any
40 death care rule or law in another state, the board may impose upon the holder of a certificate of
41 removal registration or applicant any of the sanctions described in ORS 692.180.

42 **SECTION 5.** ORS 692.260 is repealed.

43 **SECTION 6.** The amendments to ORS 692.180, 692.230, 692.265 and 692.270 by sections 1
44 to 4 of this 2025 Act and the repeal of ORS 692.260 by section 5 of this 2025 Act apply to
45 conduct occurring on or after the effective date of this 2025 Act.

