

AMENDED IN SENATE JUNE 17, 2008

AMENDED IN SENATE MAY 27, 2008

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CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1519

Introduced by Assembly Member Ma

February 23, 2007

An act to add Chapter 2.5 (commencing with Section 7070) to Part 1 of Division 7 of the Health and Safety Code, relating to human remains.

LEGISLATIVE COUNSEL'S DIGEST

AB 1519, as amended, Ma. Human remains: commercial display.

Existing law, the Uniform Anatomical Gift Act, regulates the making of anatomical gifts and the disposition of donated bodies and body parts.

~~The California Science Center, within the State and Consumer Services Agency, is administered by a 9-member board of directors, appointed by the Governor.~~

Existing law provides that the Department of Justice is composed of the Office of the Attorney General, and other divisions, bureaus, branches, sections, or other units as the Attorney General may create.

The Attorney General is head of the Department of Justice, and has charge of all legal matters in which the state is interested, subject to certain exceptions.

This bill would, with certain exceptions, prohibit the public commercial display of human remains, as defined, without a permit *for each specimen of human remains displayed* from the ~~California Science Center~~ department. The bill would ~~authorize~~ *require* the ~~center~~ department to issue a permit for this purpose only upon the ~~center's~~ department's determination that the ~~person~~ exhibitor, as defined, has met the *specified* requirements to exhibit human remains, ~~which the bill would require to be adopted by the center as regulations, as provided.~~ The bill would ~~require~~ *include* including, but not be limited to, a requirement that the ~~person~~ exhibitor has obtained valid written authorization from specified individuals to publicly display human remains, as provided. The bill would ~~require~~ *authorize* the ~~center~~ department to establish a permit fee, as provided, and would require the revenue from these fees to be deposited in the Human Remains Exhibit Permit Fund, which this bill would create. The bill would require moneys in the fund to be available to the ~~center~~ department, upon appropriation by the Legislature, for the purpose of funding the administration of the permit program. The bill would also provide that its provisions do not preempt more restrictive local regulation of the public commercial display of human remains. The bill would further provide that violation of its provisions is punishable by a civil penalty.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature finds and declares all of the
- 2 following:
- 3 (a) The Uniform Anatomical Gift Act requires any donor and
- 4 specified authorized individuals to authorize the use of anatomical
- 5 gifts for transplantation, therapy, research, and education purposes.
- 6 (b) Every city, county, or state official responsible for the
- 7 remains of unclaimed dead bodies is required to use due diligence
- 8 to notify the relatives of the decedent.
- 9 (c) The public commercial display of human remains must be
- 10 regulated to protect individual bodily integrity, as well as the social
- 11 and cultural values of the state.

(d) It is the intent of the Legislature to require persons who participate in the public commercial display of human remains to provide evidence of informed consent specific to the public exhibition and display of human remains from the decedent or relatives of all humans whose remains are put on display, and to provide for the continued use of human remains in the educational, medical, and scientific communities to promote human health and safety.

SEC. 2. Chapter 2.5 (commencing with Section 7070) is added to Part 1 of Division 7 of the Health and Safety Code, to read:

CHAPTER 2.5. COMMERCIAL DISPLAY OF HUMAN REMAINS

7070. As used in this chapter, the following terms shall have the following meanings:

(a) "Commercial display" means either of the following:

(1) A display for which the public is charged a fee or other consideration as a condition of viewing.

(2) A display for which an exhibitor accepts payment or other consideration.

(b) "*Department*" means the Department of Justice.

~~(b)~~

(c) "Exhibitor" means a person or entity who publicly displays or contracts to publicly display human remains.

~~(c)~~

(d) "Human remains" means all or part of the body of a deceased person, regardless of the stage of decomposition.

~~(d)~~

(e) "Museum facility" means a public or private nonprofit institution that is accredited by the American Association of Museums or is a part of an accredited college or university, and that is organized on a permanent basis for essentially educational or aesthetic purposes and that owns or uses tangible objects, cares for those objects, and exhibits them to the general public on a regular basis.

7071. (a) Except as provided in subdivision (b), a public commercial display of human remains is prohibited unless a permit for ~~the each specimen of human remains featured in the commercial display~~ has been issued by the ~~California Science Center~~ department pursuant to Section 7072.

(b) This section shall not apply to a display of human remains that is any of the following:

(1) More than 80 years old.

(2) Consisting solely of human teeth or hair.

(3) Part of the ordinary display or viewing of the deceased at a funeral establishment or part of a similar funeral or memorial service.

(4) An object of religious veneration.

(5) In the possession of a museum facility. However, if the museum facility paid or offered other consideration to an exhibitor to display the remains, and the remains are not exempt from this chapter pursuant to paragraphs (1) to (4), inclusive, the exhibitor shall be required to obtain a permit pursuant to Section 7072.

(c) Any person who violates this section shall be subject to a civil penalty of an amount that does not exceed ten thousand dollars (\$10,000) for each violation *specimen displayed in violation of this section.*

~~7072. (a) (1) The California Science Center may issue a permit to any person for the purpose described in Section 7071 only upon a determination by the director that the person has met the requirements to exhibit human remains, which shall be adopted as regulations by the California Science Center in accordance with subdivision (a) of Section 7075. The regulations shall include, but need not be limited to, a requirement that valid written authorization to publicly display human remains for consideration has been obtained from any of the following individuals:~~

~~7072. (a) The department shall issue a permit for the public commercial display of human remains only upon a determination that the exhibitor has met both of the following requirements:~~

~~(1) (A) Obtained valid written authorization to publicly display the human remains from any of the following individuals:~~

~~(A)~~

~~(i) The decedent, including, but not limited to, authorization given by will.~~

~~(B)~~

~~(ii) A person authorized to make an anatomical gift under Section 7150.15 or 7150.40.~~

~~(2)~~

1 (B) If the human remains are of a minor, the valid written
2 authorization required by ~~paragraph (1)~~ *subparagraph (A)* shall
3 be executed by the minor's parents or legal guardians.

4 (2) *Provided written documentation demonstrating the source*
5 *of the human remains. The department shall adopt regulations*
6 *that prescribe standards for purposes of meeting the requirements*
7 *of this paragraph.*

8 (b) (1) ~~The amount of the department may charge a fee for a~~
9 ~~permit issued pursuant to this section shall be determined by the~~
10 ~~California Science Center, and this section. The fee shall be no~~
11 ~~more than what is reasonably necessary to fund the administration~~
12 ~~of this chapter.~~

13 (2) The fees collected pursuant to paragraph (1) shall be
14 deposited in the Human Remains Exhibit Permit Fund, which is
15 hereby created in the State Treasury. Moneys in the fund, and,
16 notwithstanding Section 16305.7 of the Government Code, any
17 interest earned on moneys in the fund, shall be available to the
18 ~~center~~ department, upon appropriation by the Legislature, for
19 purposes of administering this chapter.

20 7073. Nothing in this chapter shall be construed to apply to
21 the utilization of human remains in a manner that meets the
22 purposes set forth in the Uniform Anatomical Gift Act (Chapter
23 3.5 (commencing with Section 7150)).

24 7074. Nothing in this chapter shall be construed to apply to
25 the publisher of any newspaper, periodical, or other publication,
26 or the producer of a motion picture or other visual or audiovisual
27 work, or any radio or television broadcaster, or the owner or
28 operator of any cable, satellite, or other medium of communication
29 who broadcasts, produces, or publishes *images of human remains*,
30 including over the Internet.

31 7075. ~~(a) Notwithstanding any other provision of law, the~~
32 ~~California Science Center~~ department shall, in accordance with
33 Chapter 3.5 (commencing with Section 11340) of Part 1 of Division
34 3 of Title 2 of the Government Code, promulgate regulations
35 necessary for the implementation of this chapter, ~~including, but~~
36 ~~not limited to, regulations that prescribe the requirements described~~
37 ~~in Section 7072.~~

38 ~~(b) Notwithstanding any other provision of law, whenever the~~
39 ~~center is authorized or required by statute, regulation, or due~~
40 ~~process (14th Amendment to the United States Constitution and~~

1 ~~subdivision (a) of Section 7 of Article I of the California~~
2 ~~Constitution) to conduct an adjudicative hearing leading to a final~~
3 ~~decision of the director of the center, the proceeding shall be~~
4 ~~conducted pursuant to the administrative adjudication provisions~~
5 ~~of Chapter 4.5 (commencing with Section 11400) and Chapter 5~~
6 ~~(commencing with Section 11500) of Part 1 of Division 3 of Title~~
7 ~~2 of the Government Code..~~
8 7076. Nothing in this chapter shall preempt local regulation of
9 the public commercial display of human remains. An ordinance
10 passed by a local governing body either before or after January 1,
11 2009, on the same subject is not preempted provided that the
12 restrictions contained therein are more restrictive than those
13 contained in regulations adopted pursuant to this chapter.