

AMENDED IN SENATE AUGUST 11, 2008
AMENDED IN SENATE AUGUST 6, 2008
AMENDED IN SENATE JUNE 17, 2008
AMENDED IN SENATE MAY 27, 2008
AMENDED IN SENATE APRIL 21, 2008
AMENDED IN SENATE MARCH 24, 2008
AMENDED IN ASSEMBLY JANUARY 17, 2008
AMENDED IN ASSEMBLY JANUARY 7, 2008
AMENDED IN ASSEMBLY MAY 8, 2007

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, and to repeal Section 7071 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.

This bill would, with certain exceptions and until January 1, 2010, require each exhibitor of a commercial display of human remains to conspicuously post specified clearly legible signs, at the entrance and

the ticket office to the exhibitor's commercial display, stating whether the exhibitor has obtained consent, as specified, to include each body and specimen of human remains in the exhibit, as provided. It would also require these statements to be contained in all exhibitor advertisements, as provided.

The bill would, after January 1, 2010, require an exhibitor of a commercial display of human remains to file a specified form with the Department of Justice stating that each body and specimen in the exhibit was donated by the decedent or by a person authorized to make an anatomical gift. The bill would allow the department to charge a reasonable fee to cover the costs of filing and maintaining the filed forms. The bill would also require the exhibitor to maintain a complete file of 2 catalogs of consent forms for all bodies and specimens in the exhibition, as provided.

This bill would make an exhibitor who makes a misrepresentation on the filed form, fails to file a form, or fails to maintain a file of completed the 2 catalogs of consent forms for all bodies and specimens in the exhibition subject to a civil penalty of \$50,000 per violation, as defined, and would prohibit the exhibitor from continuing the commercial display of human remains. The bill would allow enforcement actions by individuals, city attorneys, district attorneys, or the Attorney General and would award a prevailing plaintiff the penalty money as well as reasonable attorney fees and costs.

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) “Exhibitor” means a person or entity who publicly displays or contracts with a museum facility or other venue to publicly display human remains.

(c) “Human remains” means all or part of the body of a deceased person, regardless of the stage of decomposition.

(d) “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 (g), each exhibitor of a commercial display of human remains shall conspicuously post clearly legible signs in at least 96-point boldface type at the entrance and the ticket office to the exhibitor’s commercial display, stating whether or not the exhibitor has obtained consent from the decedent or by a person authorized to make an anatomical gift of the decedent’s remains, to include each body and specimen of

human remains in the exhibit. The signs shall contain one of the following disclosure statements:

(1) “This exhibition contains human remains, including full body cadavers, body parts, and organs, which were donated by the decedent or by a person authorized to make an anatomical gift under Section 7150.15 or 7150.40 of the Health and Safety Code. Each body and specimen in the exhibit was donated with full informed consent for the express purpose of public exhibition.”

(2) “This exhibition contains human remains, including full body cadavers, body parts, and organs. The bodies and specimens were not donated by the decedent or by a person authorized to make an anatomical gift under Section 7150.15 or 7150.40 of the Health and Safety Code. The exhibitor cannot independently verify whether the human remains in this exhibit are not those of persons who were incarcerated, tortured, executed, or otherwise the victim of a human rights violation.”

(b) The exhibitor shall also include the disclosure statement in all advertisements of the commercial display, including, but not limited to, Web sites, exhibit brochures, and exhibit ticket stubs. The disclosure statement contained on Web sites shall be clear and conspicuous in at least 16-point boldface type. The disclosure statement contained in brochures and programs shall be clear and conspicuous in at least 14-point boldface type. This disclosure statement contained on ticket stubs shall be clear and conspicuous in boldface type.

(c) An exhibitor who fails to make any disclosure required by this section shall be subject to a civil penalty of fifty thousand dollars (\$50,000) per violation. Each day of noncompliance shall be a separate violation for the purposes of this section.

(d) An exhibitor who makes any false statement or misrepresentation in any disclosure required by this section shall be subject to a civil penalty of fifty thousand dollars (\$50,000) per violation. Each day of noncompliance shall be a separate violation for the purposes of this section.

(e) An action may be brought by an individual, a city attorney, a district attorney, or the Attorney General to enforce this section. Reasonable attorney’s fees and costs shall be awarded to the prevailing plaintiff for an action brought pursuant to this section.

(f) Notwithstanding any other law, a violation of this chapter shall not be a crime.

(g) 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 subject to this section.

(h) This section shall remain in effect only until January 1, 2010, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2010, deletes or extends that date.

7072. (a) On or after January 1, 2010, any commercial display of human remains is prohibited unless the exhibitor files the form specified in subdivision (c) with the Department of Justice stating that each body and specimen in the exhibit was donated by the decedent or by a person authorized to make an anatomical gift under Section 7150.15 or 7150.40 with full informed consent and for the express purpose of public exhibition. The form shall list a description of, and a catalog number for, each body and specimen in the exhibit.

(b) The department may charge a reasonable fee which shall cover the costs of filing and maintaining the filed forms.

(c) The following form shall be used:

HEALTH AND SAFETY CODE SECTION 7072 FILING FOR
COMMERCIAL PUBLIC EXHIBITION OF HUMAN
REMAINS

Exhibitor Name: _____

Place of exhibition: _____

Date(s) of exhibition: _____

List and description of bodies and specimens used in the exhibition, by individual identifying number:

1.

2.

3.

1 4.
2 5.

3 (additional numbering as needed)

4 The exhibitor attests that listed donor bodies and specimens were
5 donated by either the decedent or a person authorized to make an
6 anatomical gift under Section 7150.15 or 7150.40 of the California
7 Health and Safety Code with full informed consent and for the
8 express purpose of public exhibition.

9 Signature of Exhibitor: _____

10 Date: _____

11

12 (d) (1) The exhibitor shall maintain a catalog of the consent
13 forms *and corresponding death certificates* for each body or
14 specimen listed on the form submitted to the department. The ~~file~~
15 *catalog* shall be available for inspection by the public upon request
16 ~~and shall list the donor bodies or specimens by their identifying~~
17 ~~number.~~ *a city attorney, a district attorney, or the Attorney*
18 *General.*

19 (2) *In addition to the catalog described in paragraph (1), the*
20 *exhibitor shall also maintain a catalog with copies of the consent*
21 *forms on which all names, and all identifying signatures that do*
22 *not protect the anonymity of a donor, have been removed and*
23 *replaced with an identifying number for each specimen on the form*
24 *submitted to the department pursuant to this section. The catalog*
25 *shall be maintained and shall be available for inspection by the*
26 *public upon request.*

27 (e) An exhibitor who makes a misrepresentation on the filed
28 form, fails to file a form, or fails to maintain ~~a file of completed~~
29 ~~consent forms for all bodies and specimens in the exhibition shall~~
30 ~~either one or both of the catalogs described in subdivision (d) shall~~
31 be subject to a civil penalty of fifty thousand dollars (\$50,000) per
32 violation and shall be prohibited from continuing the commercial
33 display of human remains. Each day of noncompliance is a separate
34 violation for purposes of this section.

35 (f) An action enforcing this section may be brought by an
36 individual, a city attorney, a district attorney, or the Attorney
37 General. The prevailing plaintiff in an action brought pursuant to
38 this section shall receive the penalty funds provided for in
39 subdivision (e) as well as reasonable attorney fees and costs.

1 7073. Nothing in this chapter shall be construed to apply to
2 the utilization of human remains in a manner that meets the
3 purposes set forth in the Uniform Anatomical Gift Act (Chapter
4 3.5 (commencing with Section 7150)).

5 7074. Nothing in this chapter shall be construed to apply to
6 the publisher of any newspaper, periodical, or other publication,
7 or the producer of a motion picture or other visual or audiovisual
8 work, or any radio or television broadcaster, or the owner or
9 operator of any cable, satellite, or other medium of communication
10 who broadcasts, produces, or publishes images of human remains,
11 including over the Internet.

12 7075. Nothing in this chapter shall preempt local regulation of
13 the public commercial display of human remains. An ordinance
14 passed by a local governing body either before or after January 1,
15 2009, on the same subject is not preempted provided that the
16 restrictions contained therein are more restrictive than those
17 contained in regulations adopted pursuant to this chapter.

18 7076. *In any action brought to enforce either Section 7071 or*
19 *7072, a city attorney, a district attorney, or the Attorney General*
20 *shall take reasonable steps to protect a donor's identity. The court*
21 *may permit disclosure of a donor's identity only when the public*
22 *interest in disclosure outweighs the privacy interests of a donor*
23 *and his or her immediate family in maintaining the confidentiality*
24 *of a donor's identity.*

25 7077. *Nothing in this chapter shall be construed to preempt*
26 *any existing duties or obligations otherwise imposed by state or*
27 *federal law.*