

Regular Session, 2011

HOUSE BILL NO. 256

BY REPRESENTATIVE RITCHIE

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

FUNERALS & FUNERAL HOMES: Provides relative to the identification of human remains prior to cremation

1 AN ACT

2 To amend and reenact R.S. 37:877(B)(1)(b)(ii) and 883(C), (D), (E), (F), and (G) and to  
3 enact R.S. 37:877(B)(1)(b)(iii) and 883(H) and (I), relative to cremation; to provide  
4 for representation of identity of deceased on cremation authorization forms; to  
5 require the coroner to identify human remains when releasing them to a funeral  
6 establishment; to exempt funeral or crematory establishments from liability when  
7 relying upon information provided by health care providers and coroners; to exempt  
8 funeral establishments and coroners from liability when permitting the viewing of  
9 human remains for the purposes of identification; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. R.S. 37:877(B)(1)(b)(ii) and 883(C), (D), (E), (F), and (G) are hereby  
12 amended and reenacted and R.S. 37:877(B)(1)(b)(iii) and 883(H) and (I) are hereby enacted  
13 to read as follows:

14 §877. Authorization to arrange cremation; authorization to cremate; refusal to  
15 arrange a cremation; refusal to cremate

16 \* \* \*

17 B. A crematory authority shall have authority to cremate human remains  
18 when they are delivered by the funeral establishment and upon receipt of all of the  
19 following:

20 (1)

21 \* \* \*

1 (b)

2 \* \* \*

3 (ii) The cremation authorization form, other than ~~pre-need~~ preneed cremation  
4 forms, shall also be signed by a funeral director of the funeral establishment that  
5 obtained the cremation authorization. That funeral director shall merely execute the  
6 cremation authorization form as a witness and shall not be responsible for any of the  
7 representations made by the authorizing agent, unless the individual has actual  
8 knowledge to the contrary. The information requested, however, by ~~Items~~ Item  
9 ~~(1)(a)(i) of this Paragraph, (ii), and (iii), however,~~ shall be considered to be  
10 ~~representations~~ a representation of the funeral director or funeral establishment. ~~In~~  
11 ~~addition, the funeral director or establishment shall warrant to the crematory that the~~  
12 ~~human remains delivered to the crematory authority have been positively identified~~  
13 ~~as the decedent listed on the cremation authorization by the coroner pursuant to Item~~  
14 ~~(b)(iii) of this Paragraph or positively identified after a viewing of the remains by a~~  
15 ~~person who is the authorizing agent or his a member of the class of which the~~  
16 ~~authorizing agent is composed or a designated representative thereof. The~~  
17 ~~information requested by Item (a)(iii) of this Paragraph shall be considered to be a~~  
18 ~~representation of the funeral director or funeral establishment of any information~~  
19 ~~received by the funeral director or funeral establishment pursuant to R.S. 40:1099.1.~~

20 (iii) The coroner shall provide the ~~Such~~ ~~identification shall be made in~~  
21 ~~person by the authorizing agent or his designated representative of any dead body to~~  
22 ~~the funeral director or funeral establishment to whom he relinquishes possession~~  
23 ~~thereof, unless the coroner is not able to establish the identity of the dead body as~~  
24 ~~provided in R.S. 33:1563(H).~~

25 \* \* \*

26 §883. Liability; authorizing agent; funeral director, funeral establishment, and  
27 crematory authority; refusal to arrange or perform a cremation; refusal to  
28 release cremated human remains

29 \* \* \*

1           C. There shall be no liability for a funeral director, funeral establishment, or  
2           crematory authority in relying on information provided by the coroner or health care  
3           providers pursuant to R.S. 37:877(B)(1)(b)(iii) and R.S. 40:1099.1 or their failure to  
4           provide such information.

5           D. There shall be no liability for a funeral director, funeral establishment, or  
6           coroner for permitting an authorizing agent or designated representative thereof, or  
7           any interested party, to view human remains for the purpose of identification.

8           E. A crematory authority shall not be responsible or liable for the  
9           commingling of cremated human remains if it has received a written authorization  
10          pursuant to the provisions of R.S. 37:879(G).

11          ~~D.~~ F. A crematory authority or any other person in possession of cremated  
12          human remains for a period of sixty days from the date of cremation shall not be  
13          responsible or liable for the disposition of the cremated human remains if such  
14          remains have been disposed of in accordance with the provisions of R.S. 37:880(B).

15          ~~E.~~ G. A crematory authority shall not be responsible or liable for any  
16          valuables delivered to the crematory authority with human remains.

17          ~~F.~~ H. If a funeral director refuses to arrange a cremation or a crematory  
18          authority refuses to accept a body or to perform a cremation in accordance with R.S.  
19          37:877(C), neither the funeral director nor the crematory authority shall be liable for  
20          refusing to accept a body or to perform a cremation.

21          ~~G.~~ I. If a funeral director, funeral establishment, or crematory authority  
22          refuses to release or dispose of cremated human remains in accordance with R.S.  
23          37:880(A)(2), then such persons or entities shall not be liable for their refusal to  
24          release or dispose of cremated human remains.

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DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

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Ritchie

HB No. 256

**Abstract:** Requires identification of human remains by the coroner or other authorized person prior to cremation and exempts funeral establishments from liability for relying on the information.

Present law provides that a cremation authorization form, other than preneed cremation forms, shall also be signed by a funeral director of the funeral establishment that obtained the cremation authorization. That funeral director shall merely execute the cremation authorization form as a witness and shall not be responsible for any of the representations made by the authorizing agent, unless the individual has actual knowledge to the contrary.

Proposed law retains present law.

Present law provides that the identifying information requested by present law shall be considered to be representations of the funeral director or funeral establishment. In addition, the funeral director or establishment shall warrant to the crematory that the human remains delivered to the crematory authority have been positively identified as the decedent listed on the cremation authorization by the authorizing agent or his designated representative. Such identification shall be made in person by the authorizing agent or his designated representative.

Proposed law provides that the information requested by proposed law regarding the identity of human remains and the time of death shall be considered to be a representation of the funeral director or funeral establishment that the human remains delivered to the crematory authority have been identified as the decedent listed on the cremation authorization by the coroner pursuant to proposed law or positively identified after a viewing of the remains by a person who is the authorizing agent or a member of the class of which the authorizing agent is composed or a designated representative thereof.

Proposed law provides that the information requested by proposed law regarding whether the death occurred as a result of an infectious, contagious, or communicable disease shall be considered to be a representation of the funeral director or funeral establishment of any information received by the funeral director or funeral establishment pursuant to proposed law.

Proposed law provides that the coroner shall provide the identification of any dead body to the funeral director or funeral establishment to whom it relinquishes possession thereof, unless the coroner is not able to establish the identity of the dead body as provided in proposed law.

Proposed law provides that there shall be no liability for a funeral director, funeral establishment, or crematory authority in relying on information provided by health care providers or the coroner pursuant to proposed law or their failure to provide such information.

Proposed law provides that there shall be no liability for a funeral director, funeral establishment, or coroner for permitting an authorizing agent or designated representative thereof, or any interested party, to view human remains for the purpose of identification.

Present law provides that a crematory authority shall not be responsible or liable for the commingling of cremated human remains if it has received a written authorization pursuant to the provisions of present law.

Proposed law retains present law.

Present law provides that a crematory authority or any other person in possession of cremated human remains for a period of 60 days from the date of cremation shall not be responsible or liable for the disposition of the cremated human remains if such remains have been disposed of in accordance with the provisions of present law.

Proposed law retains present law.

Present law provides that a crematory authority shall not be responsible or liable for any valuables delivered to the crematory authority with human remains.

Proposed law retains present law.

Present law provides that if a funeral director refuses to arrange a cremation or a crematory authority refuses to accept a body or to perform a cremation in accordance with present law, neither the funeral director nor the crematory authority shall be liable for refusing to accept a body or to perform a cremation.

Proposed law retains present law.

Present law provides that if a funeral director, funeral establishment, or crematory authority refuses to release or dispose of cremated human remains in accordance with present law, then such persons or entities shall not be liable for their refusal to release or dispose of cremated human remains.

Proposed law retains present law.

(Amends R.S. 37:877(B)(1)(b)(ii) and 883(C)-(G); Adds R.S. 37:877(B)(1)(b)(iii) and 883(H) and (I))

#### Summary of Amendments Adopted by House

Committee Amendments Proposed by House Committee on Commerce to the original bill.

1. Added the coroner to the list of persons who are exempt from liability for permitting certain persons to view human remains for the purpose of identification, added any interested party to the listed persons who may view human remains for the purpose of identification, and deleted a reference to proposed law.