



- d) Time and date that the flag or flags were inserted in the cremation chamber;
- e) Time and date that the flag or flags were removed from the cremation chamber;
- f) Weight of the ashes of the flag or flags after being removed from the cremation chamber; and,
- g) Disposition of the ashes of the incinerated flag or flags. (HSC 8344.6)

**Existing federal code:**

- 1) Describes the role and proper use of the American flag, including handling, displaying, and appropriate conduct during ceremonies involving a flag (4 United States Code (U.S.C.) Section 8 et seq.)
- 2) Recommends that an American flag, when in such condition that it is no longer a fitting emblem for display, should be retired in a dignified way, preferably by burning (4 U.S.C. Section 8(k))

**This bill:**

- 1) Permits a crematory to cremate the remains of a person who was a member of a branch of the United States military with a single American flag, upon request from a person who is authorized to dispose of those remains.
- 2) Exempts a licensed crematory who cremates an American flag as specified in 1) above, from the record keeping requirements for incinerating an American flag, as specified.
- 3) Makes one other minor and technical change.

**FISCAL EFFECT:** Unknown. This bill is not keyed fiscal.

**COMMENTS:**

- 1. **Purpose.** The Author is the sponsor of this measure. The Author notes, "In gratitude of their incredible valor, and in a deserving moment of final respect, service members should be allowed to be cremated with an American flag draped over their body. Currently, there is no statute that formalizes and protects this request."
- 2. **Background.**

*Cemetery and Funeral Bureau.* The Bureau is responsible for the oversight and regulation of crematories. A corporation, partnership or natural person that has obtained a valid crematory license from the Bureau may operate a crematory. Each licensed crematory must employ a licensed crematory manager to oversee all of the crematory operations. As specified in BPC § 7712.8, each crematory license is required to keep specified records and file an annual report with the Bureau describing the operations of the licensee, including the number of cremations made,

the disposition of the remains and any other information the Bureau requires. Further, HSC § 8343 requires each crematory to maintain the name of the deceased, date of cremation, name of cremation chamber operator, time and date that final processing of cremated remains was completed, and the disposition of the cremated remains which must be maintained for at least 10 years after the cremation is performed. All of the record-keeping information is subject to inspection by the Bureau.

*Flags.* Federal code establishes standards for the respectful treatment of the flag of the United States of America, and provides that when the flag is in such a condition that is no longer fitting as an emblem for display, that the flag should be destroyed in a dignified way, preferably by burning.

SB 119 (Calderon, Chapter 205, Statutes of 2013) permitted the incineration of American flags in Bureau-licensed crematories for purposes of retiring a flag. Until January 1, 2021, flag cremations were authorized to occur only one week before or after Memorial Day, Flag Day, and Independence Day. Last year, AB 2134 (Chen, Chapter 72, Statutes of 2020) expanded those days in which a flag could be cremated for retirement purposes to include one week before or after Presidents' Day and Veterans' Day, as well. At no other time of year may flags be retired through cremation procedures.

Current law does not specifically authorize nor prohibit a member of the military from being cremated with an American Flag; however, this bill will statutorily authorize a cremation of a flag outside of the currently designated timeframes for a member of the United States military.

Many of the current record keeping requirements for crematory practice for humans also extend to any American flag incinerated by the crematory. Specifically, HSC 8344.6 specifies that a crematory must keep an accurate record of the name of the organization or person requesting incineration of the flag or flags, the date of incineration of the flag or flags, the name of the cremation chamber operator, the time and date that the flag or flags were inserted in and removed from the cremation chamber, the weight of the ashes of the flag or flags after being removed from the cremation chamber, and the disposition of the ashes of the incinerated flag or flags. This bill would exempt a crematory manager from any of the record keeping requirements related to flags when the flag is cremated with an individual a member of a branch of the United States military.

3. **Prior Related Legislation.** AB 2134 (Chen, Chapter 72, Statutes of 2020) Added additional dates during which time American flags can be incinerated at a crematory for purposes of retirement.

SB 119 (Calderon, Chapter 205, Statutes of 2013) authorized a crematory regulated by the Bureau, in addition to the cremation of human remains, to also incinerate an American flag(s), in accordance with federal law, as specified, and specifies that the burning of the flag(s) occurs within one week before or after, Memorial Day, Flag Day, or Independence Day; and requires a crematory to maintain an accurate record of all flags incinerated at the crematory.

4. **Arguments in Support.** The City of Brea writes in support, "This bill would give veterans the recognition they deserve, even after they have passed away. Due to their incredible sacrifices, we owe veterans more than we can put into words."

**SUPPORT AND OPPOSITION:**

Support:

The City of Brea

Opposition:

None received

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