
CONSENT

Bill No: AB 496
Author: Chen (R)
Introduced: 2/9/21
Vote: 21

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 12-0, 6/7/21
AYES: Roth, Archuleta, Becker, Dodd, Eggman, Hurtado, Jones, Leyva, Min,
Newman, Ochoa Bogh, Pan
NO VOTE RECORDED: Melendez, Bates

SENATE MILITARY & VETERANS COMMITTEE: 6-0, 6/30/21
AYES: Archuleta, Grove, Eggman, Newman, Roth, Umberg
NO VOTE RECORDED: Melendez

ASSEMBLY FLOOR: 74-0, 4/5/21 (Consent) - See last page for vote

SUBJECT: Cremation of veterans with the United States flag

SOURCE: Author

DIGEST: This bill authorizes 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, and exempts a crematory who includes a United States flag in a cremation under this purpose from the recordkeeping requirements for cremation of a United States flag.

ANALYSIS:

Existing law:

- 1) Establishes the Cemetery and Funeral Bureau (Bureau) to license and regulate cemetery brokers, cemetery salespersons, cemetery managers, cemeteries, crematories, crematory managers, cremated remains disposers, and licensed hydrolysis facilities. (Business and Professions Code (BPC) § 7600 et. seq).

- 2) Permits a crematory regulated by the Bureau to incinerate one or more American flags under the following conditions:
 - a) Incineration of the flag or flags is performed separately from the cremation of human remains, and in accordance with Section 8(k) of Title 4 of the United States Code;
 - b) Incineration of the flag(s) occurs within one week before or after any of the following: President's Day, Memorial Day, Flag Day, Independence Day, or Veterans' Day. (Health and Safety Code (HSC) § 8344.5(b))
- 3) Requires a crematory that incinerates an American flag(s) to maintain on its premises, an accurate record of all American flags incinerated and maintain it in the crematory log for at least 10 years after the incineration, and requires the record to include all of the following information:
 - a) Name of the organization or person requesting incineration of the flag or flags;
 - b) Date of incineration of the flag or flags and name of the cremation chamber operator;
 - c) Time and date that the flag or flags were inserted in the cremation chamber, and time and date that the flag or flags were removed from the cremation chamber;
 - d) Weight of the ashes of the flag or flags after being removed from the cremation chamber; and, disposition of the ashes of the incinerated flag or flags. (HSC 8344.6)

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.

Background

Cemetery and Funeral Bureau. The Bureau is responsible for the oversight and regulation of crematories. 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, 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. . Last year, AB 2134 (Chen, Chapter 72, Statutes of 2020) expanded the authorized days in which a flag could be cremated for retirement purposes to include one week before or after Presidents' Day and Veterans' Day, in addition to the dates permitted. At no other time of year may flags be retired through cremation procedures.

Existing 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. This bill exempts a crematory manager from any of the record keeping requirements related to flags when the flag is cremated with an individual as member of a branch of the United States military.

FISCAL EFFECT: Appropriation: No Fiscal Com.: No Local: No

SUPPORT: (Verified 6/30/21)

City of Brea
Vietnam Veterans of America, California State Council

OPPOSITION: (Verified 6/30/21)

None received

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.”

Vietnam Veterans of America, California State Council writes in support, and notes “[this bill] would authorize 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 as a way to pay their final respects to the country they have served.”

ASSEMBLY FLOOR: 74-0, 4/5/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Bonta, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Muratsuchi, Nazarian, Nguyen, O'Donnell, Quirk, Quirk-Silva, Ramos, Reyes, Luz Rivas, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Wood, Rendon

NO VOTE RECORDED: Mullin, Patterson, Petrie-Norris, Wicks

Prepared by: Elissa Silva / B., P. & E.D. / 916-651-4104
7/1/21 17:23:30

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