



WISCONSIN LEGISLATIVE COUNCIL ACT MEMO

2005 Wisconsin Act 31
[2005 Assembly Bill 75]

Cremation Regulation

2005 Wisconsin Act 31 creates a Crematory Authority Council and regulates the cremation of human remains.

Creation of a Crematory Authority Council

The Act creates a Crematory Authority Council in the Department of Regulation and Licensing, consisting of the secretary of that department or designee as a nonvoting member, and the following seven persons appointed for staggered three-year terms: three persons licensed as funeral directors who operate crematories, three representatives of cemetery authorities who operate crematories, and one public member.

Authority for Cremation and for Directing Cremation

The Act prohibits a person from cremating human remains unless the Department of Regulation and Licensing has registered the person as a “crematory authority” upon receiving the specified fee and application information. Registration must be renewed every two years to stay valid. The Act authorizes the Department of Regulation and Licensing to promulgate rules under the Act and to investigate or conduct hearings to determine whether violations have occurred; specifies conditions under which the department may reprimand a crematory authority or deny, limit, suspend, or revoke a registration; and creates criminal penalties and civil forfeitures for violations under the Act.

To direct the cremation of the human remains of a decedent, the Act requires a person to complete an authorization form with specified information, including a statement that the person directing the cremation has the authority to do so. The person directing the cremation is liable for damages resulting from authorizing the cremation, and may cancel the cremation by providing the crematory authority with a written statement revoking the authorization form.

This memo provides a brief description of the Act. For more detailed information, consult the text of the law and related legislative documents at the Legislature’s Web site at: <http://www.legis.state.wi.us/>.

Cremation-Related Requirements

The Act specifies information that a crematory authority must provide in a receipt to a person from whom it receives human remains, specifies conditions under which a crematory authority may refuse to accept delivery of human remains, and prohibits a crematory authority from refusing to accept delivery of human remains solely on the basis that the remains have not been placed in a casket or have not been embalmed. A crematory authority may not cremate human remains unless it has received a completed authorization form, a copy of the cremation permit issued under s. 979.10 (1) (a), Stats., and a copy of the report for final disposition of a human corpse if required.

A crematory authority must comply with conditions set forth in the Act for holding the human remains upon acceptance until cremation, and must restrict holding facility access to authorized personnel. The Act prohibits a crematory authority from requiring human remains to be placed in a casket before cremation or to be cremated in a casket, and includes other container-related requirements. The crematory authority may not simultaneously cremate the human remains of more than one decedent within the same cremation chamber, or place cremated remains of more than one individual in the same container, unless the person directing the cremation of each decedent gives prior written consent; and must maintain an identification system that ensures the identity of human remains throughout all phases of the cremation process.

The Act includes requirements for delivery and disposition of cremated remains, and prohibits a crematory authority from selling any material or device obtained from, or any casket or other container that has been used for, cremating human remains. A crematory authority must maintain a permanent record of each cremation complying with statutory requirements.

Exceptions

The Act's requirements do not apply to the following persons:

- A person performing duties as an officer of a public institution, medical school, medical college, county medical society, anatomical association, or accredited college of embalming.
- A person acting in accordance with a statute prescribing the conditions under which donated or indigent dead human bodies are held subject for anatomical study.
- A person who is acting according to the burial customs or rites of a religious sect to which the person belongs or subscribes.

Effective Date: The Act takes effect on March 1, 2006.

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