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**HEALTH AND SAFETY CODE - HSC**

**DIVISION 8. CEMETERIES [8100 - 9703]** ( *Division 8 enacted by Stats. 1939, Ch. 60.*  )

**PART 3. PRIVATE CEMETERIES [8250 - 8829]** ( *Part 3 enacted by Stats. 1939, Ch. 60.*  )

**CHAPTER 2. Operation and Management [8275 - 8396]** ( *Chapter 2 enacted by Stats. 1939, Ch. 60.*  )

**ARTICLE 2. Rules and Regulations [8300 - 8309]** ( *Article 2 enacted by Stats. 1939, Ch. 60.*  )

**8300.** (a) A cemetery authority may make, adopt, amend, add to, revise, or modify, and enforce rules and regulations for the use, care, control, management, restriction and protection of all or any part of its cemetery and for the other purposes specified in this article.

(b) The cemetery authority's power includes, but is not limited to, the following:

- (1) Restricting and limiting the use of all property within its cemetery.
- (2) Regulating the uniformity, class, and kind of all markers, monuments, and other structures within the cemetery and its subdivisions, but shall not require, as a condition to the erection of a marker, monument, or other structure within the cemetery, that the marker, monument, or other structure be purchased from or through the cemetery authority.
- (3) Prohibiting the erection of monuments, markers, or other structures in or upon any portion of the cemetery.
- (4) Regulating or prohibiting monuments, effigies, and structures within any portion of the cemetery and provide for their removal.
- (5) Regulating or preventing the introduction or care of plants or shrubs within the cemetery.
- (6) Preventing interment in any part of the cemetery of human remains not entitled to interment and preventing the use of interment plots for purposes violative of its restrictions or rules and regulations.
- (7) Regulating the conduct of persons and preventing improper assemblages in the cemetery.
- (8) Making and enforcing rules and regulations for all other purposes deemed necessary by the cemetery authority for the proper conduct of the business of the cemetery, for the transfer of any plot or the right of interment, and the protection and safeguarding of the premises, and the principles, plans, and ideals on which the cemetery is conducted.

(Amended by Stats. 2001, Ch. 436, Sec. 25. Effective January 1, 2002.)

**8301.5.** (a) Nothing in Section 8301 shall be construed to permit a cemetery authority to discriminate against any person based upon race or gender regarding the use of any property within the cemetery.

(b) The Legislature recognizes, however, that although discrimination against persons based upon race or gender is prohibited, there are strong cultural, social, and other proper reasons for people to seek to continue association with certain groups even in death.

(c) In the same way that a family may purchase contiguous plots to ensure that family members will be buried in close proximity to one another, and in the same way that a religious group may, similarly, establish and operate a cemetery for its members, or that veterans groups may establish and operate cemeteries for veterans, the law recognizes that members of cultural, social, or other groups with strong ties are not precluded from establishing and operating cemeteries for the purpose of furthering their desire to continue to associate after interment.

(d) The urge to associate even after death also stems from an intense social and cultural need to ensure that people are connected with their past, and also to ensure that the graves and surrounding grounds are kept, tended, adorned, and embellished according to

the desires and beliefs of the decedent, family, or group.

(e) The Legislature also recognizes, that the creation or operation of a cemetery for a particular group by necessity entails some exclusionary aspects. However, the exclusionary aspects are permitted only to the extent that the purpose and effect is to include persons, as set forth in this section, rather than to exclude persons based upon race or gender.

(f) Although it is, indeed, a difficult task to permit creation and operation of cemeteries that may exclude persons that are not within the social, cultural, or other group while also assuring that the cemetery is not discriminating based upon race or gender, strong public policy compels that we perform the task. To prohibit all association limitations in the creation and operation of cemeteries would certainly ensure that no discrimination based upon race or gender occurred; however, it would be overbroad in that it would preclude activity that is not so motivated and that does not have that effect.

(g) Therefore, subdivision (a) does not preclude the establishment or operation of cemeteries for the purposes set forth in this section to the extent that, and so long as the purpose and effect is to further a sincere and bona fide association interest, rather than to discriminate against persons on the basis of race or gender.

(h) Nothing in this section applies to Native American tribal burial grounds or cemeteries that, pursuant to federal law, are not subject to state jurisdiction.

*(Added by Stats. 1996, Ch. 769, Sec. 1. Effective January 1, 1997.)*

**8309.** The rules and regulations shall be plainly printed or typewritten and maintained subject to inspection in the office of the cemetery authority or in such place or places within the cemetery as the cemetery authority may prescribe.

*(Enacted by Stats. 1939, Ch. 60.)*