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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 5. Operation of Crematories [8341 - 8347]** ( Article 5 enacted by Stats. 1939, Ch. 60. )

**8341.** All cremated remains not disposed of in accordance with this chapter, within one year, shall be interred.

(Amended by Stats. 1993, Ch. 1232, Sec. 27. Effective January 1, 1994.)

**8342.** No crematory shall make or enforce any rules requiring that human remains be placed in a casket before cremation or that human remains be cremated in a casket, nor shall a crematory refuse to accept human remains for cremation for the reason that they are not in a casket. Every director, officer, agent or representative of a crematory who violates this section is guilty of a misdemeanor. Nothing in this section shall be construed to prohibit the requiring of some type of container or disposal unit.

(Added by Stats. 1971, Ch. 1027.)

**8343.** A crematory shall maintain on its premises, or other business location within the State of California, an accurate record of all cremations performed, including all of the following information:

- (a) Name of referring funeral director, if any.
- (b) Name of deceased.
- (c) Date of cremation.
- (d) Name of cremation chamber operator.
- (e) Time and date that body was inserted in cremation chamber.
- (f) Time and date that body was removed from cremation chamber.
- (g) Time and date that final processing of cremated remains was completed.
- (h) Disposition of cremated remains.
- (i) Name and address of authorizing agent.
- (j) The identification number assigned to the deceased pursuant to Section 8344.
- (k) A photocopy of the disposition permit filed in connection with the disposition.

This information shall be maintained for at least 10 years after the cremation is performed and shall be subject to inspection by the Cemetery and Funeral Bureau.

(Amended by Stats. 2000, Ch. 568, Sec. 245. Effective January 1, 2001.)

**8344.** A crematory shall maintain an identification system allowing identification of each decedent beginning from the time the crematory accepts delivery of human remains until the point at which it releases the cremated remains to a third party. After cremation, an identifying disk, tab, or other permanent label shall be placed within the urn or cremated remains container before the cremated remains are released from the crematory. Each identification disk, tab, or label shall contain the license number of the crematory and shall have a unique number that shall be recorded on all paperwork regarding the decedent's case and in the crematory log. Each crematory shall maintain a written procedure for identification of remains. The identification requirements pertaining to an identifying disk, tab, or other label to be placed within the urn or cremated remains container shall not apply to cremated remains placed in a keepsake urn pursuant to subdivision (b) of Section 7054.6 if space does not permit.

On or after March 1, 1994, any crematory that fails, when requested by an official of the bureau to produce a written procedure for identification of remains, shall have 15 working days from the time of the request to produce an identification procedure for review by the chief of the Cemetery and Funeral Bureau. The license of the crematory shall be suspended pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if no identification procedure is produced for review after 15 working days have elapsed.

*(Amended by Stats. 2010, Ch. 415, Sec. 35. (SB 1491) Effective January 1, 2011.)*

**8344.5.** (a) Except as provided in subdivision (b) or (c), a crematory regulated by the Cemetery and Funeral Bureau shall knowingly cremate only human remains in cremation chambers, along with the cremation container, personal effects of the deceased, and no more than a negligible amount of chlorinated plastic pouches utilized for disease control when necessary.

(b) Upon request of the person with the authority to dispose of the remains, a crematory may cremate the remains of a person who was a member of a branch of the United States military with a single American flag. A flag incinerated pursuant to this subdivision is not subject to the requirements of Section 8344.6.

(c) (1) Notwithstanding any other law, a crematory regulated by the Cemetery and Funeral Bureau also may 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, as provided in subdivision (a).

(B) Incineration of the flag or flags is in accordance with Section 8(k) of Title 4 of the United States Code.

(C) Incineration of the flag or flags occurs within one week before or after any of the following:

(i) Presidents' Day.

(ii) Memorial Day.

(iii) Flag Day.

(iv) Independence Day.

(v) Veterans' Day.

(2) This subdivision does not attempt to restrict or otherwise infringe upon any person's right to free expression under the First Amendment to the United States Constitution.

*(Amended by Stats. 2021, Ch. 118, Sec. 1. (AB 496) Effective January 1, 2022.)*

**8344.6.** (a) A crematory that incinerates an American flag or flags pursuant to Section 8344.5 shall maintain on its premises an accurate record of all American flags incinerated as specified in Section 8344.5, including all of the following information:

(1) Name of the organization or person requesting incineration of the flag or flags.

(2) Date of incineration of the flag or flags.

(3) Name of the cremation chamber operator.

(4) Time and date that the flag or flags were inserted in the cremation chamber.

(5) Time and date that the flag or flags were removed from the cremation chamber.

(6) Weight of the ashes of the flag or flags after being removed from the cremation chamber.

(7) Disposition of the ashes of the incinerated flag or flags.

(b) This information shall be maintained in the crematory log for at least 10 years after the incineration of an American flag or flags and shall be subject to inspection by the Cemetery and Funeral Bureau.

*(Added by Stats. 2013, Ch. 205, Sec. 2. (SB 119) Effective January 1, 2014.)*

**8345.** If a cremated remains container is of insufficient capacity to accommodate all cremated remains of a given deceased, the crematory shall provide a larger cremated remains container at no additional cost, or place the excess remains in a secondary cremated remains container and attach the second container, in a manner so as not to be easily detached through incidental contact, to the primary cremated remains container for interment, scattering, or other disposition by the person entitled to control the disposition.

*(Added by Stats. 1993, Ch. 1232, Sec. 31. Effective January 1, 1994.)*

**8345.5.** A crematory shall not accept human remains for cremation unless the remains meet all of the following requirements:

- (a) The remains shall be in a cremation container, as defined.
- (b) The cremation container shall be labeled with the identity of the decedent.

*(Added by Stats. 1993, Ch. 1232, Sec. 32. Effective January 1, 1994.)*

**8346.** Within two hours after a crematory licensed by the State of California takes custody of a body that has not been embalmed, it shall refrigerate the body at a temperature not greater than 50 degrees Fahrenheit unless the cremation process will begin within 24 hours of the time that crematory took custody.

*(Amended by Stats. 1994, Ch. 570, Sec. 10. Effective January 1, 1995.)*

**8346.5.** Every crematory operator, or duly authorized representative shall provide to any person who inquires in person, a written, or printed list of prices for cremation and storage, cremation containers, cremated remains containers and urns, and requirements for cremation containers. This information shall be provided over the telephone when requested. Commencing July 1, 1994, any written or printed list shall identify the crematorium and shall contain, at a minimum, the current address and phone number of the Cemetery and Funeral Bureau in 8-point boldface type, or larger.

*(Amended by Stats. 2000, Ch. 568, Sec. 248. Effective January 1, 2001.)*

**8347.** (a) The crematory licensee, or his or her authorized representative shall provide instruction to all crematory personnel involved in the cremation process. This instruction shall lead to a demonstrated knowledge on the part of an employee regarding identification procedures used during cremation, operation of the cremation chamber and processing equipment and all laws relevant to the handling of a body and cremated remains. This instruction shall be outlined in a written plan maintained by the crematory licensee for inspection and comment by an inspector of the Cemetery and Funeral Bureau.

(b) No employee shall be allowed to operate any cremation equipment until he or she has demonstrated to the licensee or authorized representative that he or she understands procedures required to ensure that health and safety conditions are maintained at the crematory and that cremated remains are not commingled other than for acceptable residue, as defined. The crematory licensee shall maintain a record to document that an employee has received the training specified in this section.

(c) On or after March 1, 1994, any crematory that fails, when requested by an official of the bureau, to produce a written employee instruction plan, or record of employee training for inspection, shall have 15 working days from the time of the request to produce a plan or training record for review by the chief of the Cemetery and Funeral Bureau. The license of the crematory shall be suspended, pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, if no plan or training record is produced for review after 15 working days have elapsed.

*(Amended by Stats. 2000, Ch. 568, Sec. 249. Effective January 1, 2001.)*