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AB-2134 Crematories: burning of flags. (2019-2020)

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Assembly Bill No. 2134

CHAPTER 72

An act to amend Section 8344.5 of the Health and Safety Code, relating to crematories.

[Approved by Governor September 11, 2020. Filed with Secretary of State September 11, 2020.]

LEGISLATIVE COUNSEL'S DIGEST

AB 2134, Chen. Crematories: burning of flags.

Existing law requires a crematory regulated by the Cemetery and Funeral Bureau to knowingly cremate only human remains in cremation chambers, along with cremation containers, items used for disease control, and personal effects of the deceased. Existing law authorizes the incineration of one or more American flags, performed separately from the cremation of human remains and in accordance with specified federal law, during the periods within one week before or after Memorial Day, Flag Day, and Independence Day.

This bill would additionally authorize a crematory to incinerate one or more American flags during the periods within one week before or after Presidents' Day and Veterans' Day.

Vote: majority Appropriation: no Fiscal Committee: no Local Program: no

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 8344.5 of the Health and Safety Code is amended to read:

8344.5. (a) Except as provided in subdivision (b), 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) (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) Nothing in this subdivision shall be construed to attempt to restrict or otherwise infringe upon any person's right to free expression under the First Amendment to the United States Constitution.