

CEMETERY AND FUNERAL BUREAU FINAL STATEMENT OF REASONS

Hearing Date: July 22, 2015

Subject Matter of Proposed Regulations: Hearses and First-Call or Pickup Cars; Authorization to Accept or Decline Embalming; Sanitation; Care and Preparation for Burial; Posting Rules; Notice Regarding Casket Disclaimer; Casket Price Lists, Price Tags, Price Ranges and Display; Rental Caskets; Cemetery and Funeral Bureau Notification; Statement of Disclosure of Preneed Agreement

10 Section(s) Affected:

Amend Sections 1209, 1214, 1216, 1221, 1255, 1258, 1258.1, 1258.2, 1258.4
Repeal Section 1258.3

Updated Information:

The Initial Statement of Reasons is included in the file. The information contained reflects the final action of the Cemetery and Funeral Bureau (Bureau). However, the Bureau would like to clarify the information provided regarding the necessity to amend California Code of Regulations (CCR) Sections 1216 and 1255. The Bureau is amending these sections to maintain consistency with regulatory requirements of CCR Section 1223. California law does not require embalming, therefore, pursuant to CCR Section 1223(c), a funeral establishment who holds unembalmed human remains for a period longer than 24 hours is required to refrigerate the remains at an approved facility. Some funeral establishments conduct business in smaller storefront or business offices set-up to display merchandise and meet with families to make arrangements without having onsite preparation and storage. In these instances, a funeral establishment may utilize an approved facility, such as a refrigeration facility, in accordance with Business and Professions Code (BPC) section 7616(b), to store human remains until they are prepared for final disposition.

Local Mandate:

A mandate is not imposed on local agencies or school districts.

Small Business Impact:

The regulatory proposal may have a negligible impact on small businesses. The proposed amendments modernize language, clarify terms, and update a form already required by CCR Section 1214. Small businesses may incur a nominal cost to update the required form.

Consideration of Alternatives:

No reasonable alternative which was considered or that has otherwise been identified and brought to the attention of the Bureau would be more effective in carrying out the purpose for which it was proposed or would be as effective and less burdensome to affected private persons than the adopted regulation or would be more cost effective to affected private persons and equally effective in implementing the statutory policy or other provision of law. No reasonable alternative was presented to the Bureau or otherwise brought to the Bureau's attention for consideration.

Objections or Recommendations/Responses:

The Bureau received one comment during the 45-day comment period, which is contained in tab 8 of this rulemaking file, and summarized below with response from the Bureau. In addition, the Bureau received a comment during the public hearing which is also summarized below with response from the Bureau.

Comment: Dan O'Hara provided a written comment stating that the proposed language for CCR Section 1258.2(f), "All rental caskets shall be included on the casket price list required by Business and Professions Code section 7685 . . ." overstates the 7685c requirement by erroneously implying that licensed funeral establishments must maintain a fully inclusive inventory price list at all times for distribution. In addition, Mr. O'Hara states the language should include the phrase "regularly offered for sale."

Response: The Bureau rejects this comment. Mr. O'Hara erroneously identified BPC section 7685(a)(3) as 7685(c); there is no subsection (c) in 7685. CCR Section 1258.2(f) is necessary to clarify that if a funeral establishment offers rental caskets they must include the information on their casket price list which is consistent with the requirements of BPC section 7685(a)(3). CCR Section 1258.1(c)(1) includes the phrase "regularly offered for sale" and applies to the price range listed on the casket price list which includes rental caskets.

Comment: Marjorie Bridges provided oral testimony during the public hearing stating her concern that "lumping together" all of the casket prices is not a consumer friendly approach and believes that the prices for adult caskets, alternative containers, and child caskets should be separate. Ms. Bridges also did not want the requirement to include the name, address, and contact information for the Cemetery and Funeral Bureau on the general price lists of the funeral home, crematory, and cemetery to be removed.

Response: The Bureau rejects this comment. The proposed amendment to CCR Section 1258.1(c)(1) will require funeral establishments to list all adult, infant and child, and rental caskets regularly offered for sale in one price range and all alternative containers regularly offered for sale in a separate price range. The funeral establishment is still required to provide consumers a casket price list which must include the price and a description of the individual caskets they regularly offer for sale.

BPC section 7685.3 requires contact information for the Cemetery and Funeral Bureau on the first page of all contracts for goods and services which makes CCR Section 1258.3 redundant and unnecessary. Repealing this section does not remove the requirement for funeral establishments.

Finding of Necessity:

The Bureau hereby finds that it is necessary for the public health, safety, and welfare of the people of California that these regulations apply to businesses and individuals providing funeral related services regulated by the Bureau.