

California Health and Safety Code

Division 7: Dead Bodies

Part 1, Chapter 2: General Provisions

- 7050.5.(a) Every person who knowingly mutilates or disinters, wantonly disturbs, or willfully removes any human remains in or from any location other than a dedicated cemetery without authority of law is guilty of a misdemeanor, except as provided in Section 5097.99 of the Public Resources Code. The provisions of this subdivision shall not apply to any person carrying out an agreement developed pursuant to subdivision (1) of Section 5097.94 of the Public Resources Code or to any person authorized to implement Section 5097.98 of the Public Resources Code.
- (b) In the event of discovery or recognition of any human remains in any location other than a dedicated cemetery, there shall be no further excavation or disturbance of the site or any nearby area reasonably suspected to overlie adjacent remains until the coroner of the county in which the human remains are discovered has determined, in accordance with Chapter 10 (commencing with Section 27460) of Part 3 of Division 2 of Title 3 of the Government Code, that the remains are not subject to the provisions of Section 27491 of the Government Code or any other related provisions of law concerning investigation of the circumstances, manner and cause of any death, and the recommendations concerning the treatment and disposition of the human remains have been made to the person responsible for the excavation, or to his or her authorized representative, in the manner provided in Section 5097.98 of the Public Resources Code. The coroner shall make his or her determination within two working days from the time the person responsible for the excavation, or his or her

authorized representative, notifies the coroner of the discovery or recognition of the human remains.

- (c) If the coroner determines that the remains are not subject to his or her authority and if the coroner recognizes the human remains to be those of a Native American, or has reason to believe that they are those of a Native American, he or she shall contact, by telephone within 24 hours, the Native American Heritage Commission.

7051. Every person who removes any part of any human remains from any place where it has been interred, or from any place where it is deposited while awaiting interment or cremation, with intent to sell it or to dissect it, without authority of law, or written permission of the person or persons having the right to control the remains under Section 7100, or with malice or wantonness, has committed a public offense that is punishable by imprisonment in the state prison. This section shall not prohibit the removal of foreign materials, pacemakers, or prostheses from cremated remains by an employee of a licensed crematory prior to final processing of ashes. Dental gold or silver, jewelry, or mementos, to the extent that they can be identified, may be removed by the employee prior to final processing if the equipment is such that it will not process these materials. However, any dental gold and silver, jewelry, or mementos that are removed shall be returned to the urn or cremated remains container, unless otherwise directed by the person or persons having the right to control the disposition.

7051.5. Every person who removes or possesses dental gold or silver, jewelry, or mementos from any human remains without specific written permission of the person or persons having the right to control those remains under Section 7100 is punishable by imprisonment in the state prison. The fact that residue and any unavoidable dental gold or dental silver, or other precious metals remain in the cremation chamber or other equipment or any container used in a prior cremation is not a violation of this section.

7052. (a) Every person who willfully mutilates, disinters, removes from the place of interment, or commits an act of sexual penetration on, or has sexual contact with, any remains known to be human, without authority of law, is guilty of a felony. This section does not apply to any person who, under authority of law, removes the remains for reinterment, or performs a cremation.
- (b) For purposes of this section, the following definitions apply:
- (1) "Sexual penetration" means the unlawful penetration of the vagina or anus, however slight, by any part of a person's body or other object, or any act of sexual contact between the sex organs of a person and the mouth or anus of a dead body, or any oral copulation of a dead human body for the purpose of sexual arousal, gratification, or abuse.
- (2) "Sexual contact" means any willful touching by a person of an intimate part of a dead human body for the purpose of sexual arousal, gratification, or abuse.
- 7052.5. Notwithstanding the provisions of Section 7052, cremated remains may be removed from the place of interment for disposition as provided in Section 7054.6 or for burial at sea as provided in Section 117.
7053. Every person who arrests, attaches, detains, or claims to detain any human remains for any debt or demand, or upon any pretended lien or charge, or fails to release any human remains, the personal effects, or any certificate or permit required under Division 102 (commencing with Section 102100) that is in his or her possession or control forthwith upon the delivery of authorization for the release signed by the next of kin or by any person entitled to the custody of the remains, is guilty of a misdemeanor.
7054. (a) (1) Except as authorized pursuant to the sections referred to in subdivision (b), every person who deposits or disposes of any human remains in any

place, except in a cemetery, is guilty of a misdemeanor.

- (2) Every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) or Chapter 19 (commencing with Section 9600) of Division 3 of the Business and Professions Code and the agents and employees of the licensee or registrant, or any unlicensed person acting in a capacity in which a license from the Cemetery and Funeral Bureau is required, who, except as authorized pursuant to the sections referred to in subdivision (b), deposits or disposes of any human remains in any place, except in a cemetery, is guilty of a misdemeanor that shall be punishable by imprisonment in a county jail not exceeding one year, by a fine not exceeding ten thousand dollars (\$10,000), or both that imprisonment and fine.
- (b) Cremated remains may be disposed of pursuant to Sections 7054.6, 7116, 7117, and 103060.
- (c) Subdivision (a) of this section shall not apply to the reburial of Native American remains under an agreement developed pursuant to subdivision (1) of Section 5097.94 of the Public Resources Code, or implementation of a recommendation or agreement made pursuant to Section 5097.98 of the Public Resources Code.

7054.1. No cremated remains shall be removed from the place of cremation, nor shall there be any charge for the cremation, unless the cremated remains have been processed so that they are suitable for inurnment within a cremated remains container or an urn. Every contract for cremation services shall include specific written notification of the processing to the person having the right to control the disposition of the remains under Section 7100.

7054.3. Notwithstanding any other provision of law, a recognizable dead human fetus of less than 20 weeks uterogestation not disposed of by interment shall be disposed of by incineration.

- 7054.4. Notwithstanding any other provision of law, recognizable anatomical parts, human tissues, anatomical human remains, or infectious waste following conclusion of scientific use shall be disposed of by interment, incineration, or any other method determined by the state department to protect the public health and safety. As used in this section, "infectious waste" means any material or article which has been, or may have been, exposed to contagious or infectious disease.
- 7054.6. (a) Cremated remains may be removed in a durable container from the place of cremation or interment and kept in the dwelling owned or occupied by the person having the right to control disposition of the remains under Section 7100, or the durable container holding the cremated remains may be kept in a church or religious shrine, if written permission of the church or religious shrine is obtained and there is no conflict with local use permit requirements or zoning laws, if the removal is under the authority of a permit for disposition granted under Section 103060. The placement, in any place, of six or more cremated remains under this section does not constitute the place a cemetery, as defined in Section 7003.
- (b) Prior to disposition of cremated remains, every licensee or registrant pursuant to Chapter 12 (commencing with Section 7600) or Chapter 19 (commencing with Section 9600) of Division 3 of the Business and Professions Code, and the agents and employees of the licensee or registrant shall do all of the following:
- (1) Remove the cremated remains from the place of cremation in a durable container.
 - (2) Keep the cremated remains in a durable container.
 - (3) Store the cremated remains in a place free from exposure to the elements.
 - (4) Responsibly maintain the cremated remains.

- 7054.7.(a) Except with the express written permission of the person entitled to control the disposition of the remains, no person shall:
- (1) Cremate the remains of more than one person at the same time in the same cremation chamber, or introduce the remains of a second person into a cremation chamber until incineration of any preceding remains has been terminated and reasonable efforts have been employed to remove all fragments of the preceding remains. The fact that there is residue in the cremation chamber or other equipment or any container used in a prior cremation is not a violation of this section.
 - (2) Dispose of or scatter cremated remains in a manner or in a location that the remains are commingled with those of another person. This paragraph shall not apply to the scattering of cremated remains at sea from individual containers or to the disposal in a dedicated cemetery of accumulated residue removed from a cremation chamber or other cremation equipment.
 - (3) Place cremated or uncremated remains of more than one person in the same container or the same interment space. This paragraph shall not apply to the following:
 - (A) Interment of members of the same family in a common container designed for the cremated remains of more than one person.
 - (B) Interment in a space or container that has been previously designated at the time of sale as being intended for the interment of remains of more than one person.
 - (C) Disposal in a dedicated cemetery of residue removed from a cremation chamber or other cremation equipment.
- (b) Written acknowledgement from the person entitled to control the disposition of the cremated remains shall be obtained by the person with whom arrangements are made for disposition of the remains on a form that

includes, but is not limited to, the following information: "The human body burns with the casket, container, or other material in the cremation chamber. Some bone fragments are not combustible at the incineration temperature and, as a result, remain in the cremation chamber. During the cremation, the contents of the chamber may be moved to facilitate incineration. The chamber is composed of ceramic or other material which disintegrates slightly during each cremation and the product of that disintegration is commingled with the cremated remains. Nearly all of the contents of the cremation chamber, consisting of the cremated remains, disintegrated chamber material, and small amounts of residue from previous cremations, are removed together and crushed, pulverized, or ground to facilitate inurnment or scattering. Some residue remains in the cracks and uneven places of the chamber. Periodically, the accumulation of this residue is removed and interred in a dedicated cemetery property, or scattered at sea." The acknowledgment shall be filed and retained, for at least five years, by the person who disposes of or interrs the remains.

- (c) Any person, including any corporation or partnership, knowingly violating any provision of this section is guilty of a misdemeanor.

7055. Every person, who for himself or herself or for another person, interrs or incinerates a body or permits the same to be done, or removes any remains, other than cremated remains, from the primary registration district in which the death or incineration occurred or the body was found, except a removal by a funeral director in a funeral director's conveyance or an officer of a duly accredited medical college engaged in official duties with respect to the body of a decedent who has willfully donated his or her body to the medical college from that registration district or county to another registration district or county, or within the same registration district or county, without the authority of a burial or removal permit issued by the local registrar of the district in which the death occurred or in which the body was found; or removes interred human remains from the cemetery in which the

interment occurred, or removes cremated remains from the premises on which the cremation occurred without the authority of a removal permit is guilty of a misdemeanor and punishable as follows:

- (a) For the first offense, by a fine of not less than ten dollars (\$10) nor more than five hundred dollars (\$500).
- (b) For each subsequent offense, by a fine of not less than fifty dollars (\$50) nor more than five hundred dollars (\$500) or imprisonment in the county jail for not more than 60 days, or by both.