

Legislative Analysis



CREMAINS: REGISTRY OF VETERANS AND IMMUNITY FROM LIABILITY

Mitchell Bean, Director
Phone: (517) 373-8080
<http://www.house.mi.gov/hfa>

House Bill 5245 (Substitute H-2)
Sponsor: Rep. Gino Polidori

House Bill 5246 (Substitute H-1)
Sponsor: Rep. Kenneth Kurtz

Committee: Military and Veterans Affairs and Homeland Security
Complete to 9-1-09

A SUMMARY OF HOUSE BILLS 5245 & 5246 AS REPORTED FROM COMMITTEE ON 8-26-09

House Bill 5245 would amend the Occupational Code (MCL 339.1809b) to specify that a person licensed in the practice of mortuary science could compile a list of names of the unclaimed cremated remains (or "cremains") held in his or her possession for purposes of determining whether one or more of the deceased is a veteran of the United States armed services.

Under the bill, the funeral director could release the list of names to any federally chartered veterans service organization to confirm with the National Cemetery Administration's Central Scheduling Office in St. Louis, Missouri, whether the deceased is eligible for proper disposition at a veterans cemetery. The veterans service organization would be required to report to the funeral director regarding the names of the confirmed veterans or spouses of veterans. If the unclaimed cremains of a confirmed veteran were not claimed by the person to whom the proper notice had been sent, the funeral director would arrange for the proper disposition with a state or national veterans cemetery.

A funeral director would be immune from criminal or civil liability for complying with this provision.

House Bill 5246 would amend the Occupational Code (MCL 339.101 et al.) by adding Section 1809a to specify that a person licensed in the practice of mortuary science is immune from civil liability for the proper disposition of unclaimed cremated remains if the proper disposition was made six months or longer after the date of cremation and at least 30 days after the date the required notice was sent. A funeral director claiming immunity under this section would be required to send written notice of intent to make proper disposition of the unclaimed cremations to the person having the right to make decisions about the disposition of a decedent's body as provided under Section 3206 of the Estates and Protected Individuals Code (EPIC). (However, the bill's provisions would not supersede the existing provisions involving the priority of persons with the

right to make decisions relating to the disposition of a decedent's body defined in Section 3206 of the EPIC Code.)

The bill would define "proper disposition" to mean interment, entombment, or inurnment of unclaimed cremated remains in a cemetery in this state. In the case of the unclaimed cremains of a veteran of the United States armed forces, proper disposition includes the interment, entombment, or inurnment in a cemetery designed solely for veterans by the United States Department of Veterans Affairs or by the Michigan Department of Veterans Affairs. "Unclaimed Cremated Remains" would be defined to mean the cremated remains of a dead human body that has not been picked up or delivered to a person with the right to make decisions relating to the deposition of a decedent's body under Section 3206 of the EPIC Code.

House Bills 5245 and 5246 are tie-barred to each other meaning neither could take effect unless both are enacted. The bills have an effective date of July 1, 2010.

FISCAL IMPACT:

The bills have no apparent fiscal impact on state or local government.

POSITIONS:

A representative of Missing in America Project testified in support of the bills. (8-26-09)

A representative from Veterans of Foreign Wars (VFW) testified in support of the bills (8-26-09)

Michigan Funeral Directors Association testified in support of the bills. (8-26-09)

Military Order of the Purple Heart supports the bills. (8-26-09)

The American Legion, The Marine Corps League, and The Commanders Group support the bills. (8-26-09)

Legislative Analyst: E. Best
Fiscal Analyst: Mark Wolf

■ This analysis was prepared by nonpartisan House staff for use by House members in their deliberations, and does not constitute an official statement of legislative intent.