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HOUSE BILL 852

49TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2009

INTRODUCED BY

Kathy A. McCoy

AN ACT

RELATING TO UNCLAIMED HUMAN REMAINS; PROVIDING FOR THE
IDENTIFICATION OF HUMAN REMAINS AS THOSE OF A VETERAN;
PROVIDING FOR TRANSPORTATION TO A MILITARY CEMETERY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. SHORT TITLE.--This act may be cited as the
"Disposition of Veterans' Cremains Act".

Section 2. DEFINITIONS.--As used in the Disposition of
Veterans' Cremains Act:

A. "armed forces" means the United States army,
navy, air force, marine corps or coast guard;

B. "authorizing agent" means a person who is
legally entitled to order the cremation and final disposition
of the remains of a deceased person;

C. "cremains" means cremated remains of a human

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1 body;

2 D. "funeral service practitioner" means a funeral
3 service practitioner or an assistant funeral service
4 practitioner licensed pursuant to the Thanatopractice Act;

5 E. "veteran" means a New Mexico resident who has
6 served as a member of the armed forces or a member of the
7 national guard of New Mexico and who has received an honorable
8 discharge; and

9 F. "veterans organization" means an association or
10 other entity organized for the benefit of veterans that has
11 been recognized or chartered by the congress of the United
12 States and includes the American legion, the legion of honor,
13 the patriot guard, the missing in America project and the
14 Vietnam veterans of America.

15 Section 3. FUNERAL SERVICE PRACTITIONER
16 RESPONSIBILITIES.--

17 A. A funeral service practitioner shall make a
18 reasonable effort to determine whether a deceased person whose
19 remains have been submitted to a funeral establishment for
20 final disposition by cremation is one of the following:

- 21 (1) a veteran;
22 (2) a spouse of a veteran; or
23 (3) the dependent child of a veteran.

24 B. The actions of a funeral service practitioner
25 required pursuant to Subsection A of this section shall be

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1 initiated within seventy-two hours after an order of
2 disposition for cremation has been signed by the authorizing
3 agent. The funeral service practitioner shall initiate the
4 inquiry with the authorizing agent and shall notify the
5 authorizing agent of the funeral service practitioner's
6 responsibilities pursuant to the Disposition of Veterans'
7 Cremains Act.

8 C. If the funeral service practitioner cannot
9 determine with certainty the deceased person's status as a
10 veteran, spouse of a veteran or the dependent child of a
11 veteran, and no authorizing agent exists, the funeral service
12 practitioner may allow the national cemetery administration of
13 the United States department of veterans affairs, a veterans
14 organization whose primary purpose is to locate, identify and
15 inter the unclaimed cremains of veterans or any federally
16 chartered veterans service organization to have access to all
17 information regarding the deceased person in the possession of
18 the funeral service practitioner so that it may attempt to
19 determine whether the deceased person qualifies pursuant to
20 Subsection A of this section.

21 D. If the funeral service practitioner determines
22 that the deceased person is either a veteran, a spouse of a
23 veteran or the dependent child of a veteran, the funeral
24 service practitioner shall immediately notify the authorizing
25 agent of this finding and advise the authorizing agent that the

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1 deceased person may be eligible to be interred at an
2 appropriate veterans' cemetery.

3 E. If the cremains of a veteran, spouse of a
4 veteran or dependent child of a veteran are not claimed by an
5 authorizing agent, the funeral service practitioner shall hold
6 any cremains for at least two years. After two years have
7 expired, the funeral service practitioner shall then send
8 written notice to an authorizing agent requesting disposition
9 instructions. If the funeral service practitioner does not
10 receive a written response from an authorizing agent within
11 thirty days after this written notice is sent, the funeral
12 service practitioner shall then contact any veterans
13 organization whose primary purpose is to locate, identify and
14 inter the unclaimed cremains of American veterans or any
15 federally chartered veterans service organization so that
16 arrangements for the disposition of the cremains of the
17 veteran, spouse of a veteran or dependent child of a veteran
18 may be made in a state or national veterans' cemetery.

19 F. The funeral service practitioner may release any
20 relevant information to the United States department of
21 veterans affairs or any veterans' organization to affect the
22 timely and accurate identification and interment of a decedent
23 as a veteran, the spouse of a veteran or the dependent child of
24 a veteran.

25 Section 4. IMMUNITY.--A funeral service practitioner

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1 complying with the provisions of the Disposition of Veterans'
2 Cremains Act is immune from any criminal or civil liability
3 regarding the release of information relative to the
4 determination of the status as a veteran, spouse of a veteran
5 or dependent child of a veteran or any available interment as a
6 veteran or for the release of the cremains to a veterans'
7 cemetery.

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