

FIRST REGULAR SESSION

[PERFECTED]

SENATE SUBSTITUTE FOR

# SENATE BILL NO. 116

102ND GENERAL ASSEMBLY

INTRODUCED BY SENATOR BROWN (16).

1133S.02P

KRISTINA MARTIN, Secretary

## AN ACT

To repeal sections 193.175, 194.010, 194.020, 194.060, 194.070, 194.080, 194.090, 194.100, 194.105, 194.110, and 194.119, RSMo, and to enact in lieu thereof four new sections relating to the disposition of the dead.

*Be it enacted by the General Assembly of the State of Missouri, as follows:*

Section A. Sections 193.175, 194.010, 194.020, 194.060,  
2 194.070, 194.080, 194.090, 194.100, 194.105, 194.110, and  
3 194.119, RSMo, are repealed and four new sections enacted in  
4 lieu thereof, to be known as sections 193.175, 194.010, 194.105,  
5 and 194.119, to read as follows:

193.175. [1. The funeral director or person acting as  
2 such in charge of final disposition of a dead body shall  
3 file a completed notification of death with the local  
4 registrar where the death occurred. Such notification of  
5 death shall be on a form or in a format prescribed and  
6 furnished by the state registrar and shall be filed or  
7 postmarked prior to the date of final disposition of the  
8 body. Such notification of death shall authorize final  
9 disposition except as otherwise stated in this section or in  
10 section 193.145. If the body is to be cremated, a completed  
11 death certificate shall be filed with the local registrar

**EXPLANATION-Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.**

12 prior to cremation and shall authorize cremation except as  
13 stated in section 193.145.

14 **2.]** The funeral director or person in charge of final  
15 disposition of a dead body shall, prior to the interment of  
16 such dead body, affix on the ankle or wrist of the deceased  
17 and/or in a capsule **or other container** placed in the casket  
18 or, if the dead body is cremated, on the inside of the  
19 vessel containing the remains, a tag encased in durable and  
20 long-lasting material containing the name of the deceased,  
21 the date of birth, date of death and Social Security number  
22 of the deceased.

194.010. [A disinterred human body, dead of a disease  
2 or any cause, will be treated as infectious and dangerous to  
3 the public health, and shall not be offered to or accepted  
4 by any common carrier for transportation unless it is  
5 encased in an airtight metal or metal-lined burial case,  
6 coffin, casket or box that is closed and hermetically  
7 sealed] **The department of health and senior services shall  
8 issue regulations setting forth health and safety  
9 requirements for transporting dead human bodies that are  
10 placed on common carriers in the state of Missouri.**

194.105. In addition to any records filed pursuant to  
2 chapter 193, any person or owner or operator of any cemetery  
3 which removes any body which has been properly buried or  
4 interred for transportation to a location outside the  
5 original cemetery shall, prior to such disinterment, file  
6 notice with the county coroner or county medical examiner [  
7 and also notify by certified mail, the closest living  
8 relative known to the cemetery operator, of the body being  
9 moved. Such notice shall provide the name and address of  
10 the person moving the body, the name of the person whose  
11 body is to be moved, and the location to which the body is

12 to be moved. Transportation of the body shall be in  
13 accordance with the provisions of sections 194.010 to  
14 194.110, and in accordance with any other applicable law or  
15 regulation].

194.119. 1. As used in this section, the term "right  
2 of sepulcher" means the right to choose and control the  
3 burial, cremation, or other final disposition of a dead  
4 human body.

5 2. For purposes of this chapter and chapters 193, 333,  
6 and 436, and in all cases relating to the custody, control,  
7 and disposition of deceased human remains, including the  
8 common law right of sepulcher, where not otherwise defined,  
9 the term "next-of-kin" means the following persons in the  
10 priority listed if such person is eighteen years of age or  
11 older, is mentally competent, and is willing to assume  
12 responsibility for the costs of disposition:

13 (1) An attorney in fact designated in a durable power  
14 of attorney wherein the deceased specifically granted the  
15 right of sepulcher over his or her body to such attorney in  
16 fact;

17 (2) For a decedent who was on active duty in the  
18 United States military at the time of death, the person  
19 designated by such decedent in the written instrument known  
20 as the United States Department of Defense Form 93, Record  
21 of Emergency Data, in accordance with [P.L. 109-163, Section  
22 564,] 10 U.S.C. Section 1482;

23 (3) The surviving spouse, **unless an action for the**  
24 **dissolution of the marriage has been filed and is pending in**  
25 **a court of competent jurisdiction;**

26 (4) Any surviving child of the deceased. If a  
27 surviving child is less than eighteen years of age and has a  
28 legal or natural guardian, such child shall not be

29 disqualified on the basis of the child's age and such  
30 child's legal or natural guardian, if any, shall be entitled  
31 to serve in the place of the child unless such child's legal  
32 or natural guardian was subject to an action in dissolution  
33 from the deceased. In such event the person or persons who  
34 may serve as next-of-kin shall serve in the order provided  
35 in subdivisions (5) to (9) of this subsection;

36 (5) (a) Any surviving parent of the deceased; or

37 (b) If the deceased is a minor, a surviving parent who  
38 has custody of the minor; or

39 (c) If the deceased is a minor and the deceased's  
40 parents have joint custody, the parent whose residence is  
41 the minor child's residence for purposes of mailing and  
42 education;

43 (6) Any surviving sibling of the deceased;

44 (7) The next nearest surviving relative of the  
45 deceased by consanguinity or affinity;

46 (8) Any person or friend who assumes financial  
47 responsibility for the disposition of the deceased's remains  
48 if no next-of-kin assumes such responsibility;

49 (9) The county coroner or medical examiner; provided  
50 however that such assumption of responsibility shall not  
51 make the coroner, medical examiner, the county, or the state  
52 financially responsible for the cost of disposition.

53 3. The next-of-kin of the deceased shall be entitled  
54 to control the final disposition of the remains of any dead  
55 human being consistent with all applicable laws, including  
56 all applicable health codes. **The next-of-kin may delegate**  
57 **the control of the final disposition of the remains of any**  
58 **dead human being to an agent through either a specific or**  
59 **general grant of power in accordance with section 404.710**  
60 **if, at the time of delegation, the next-of-kin was eighteen**

61 **years of age or older and mentally competent and the**  
62 **principal or agent is taking financial responsibility for**  
63 **the disposition.**

64 4. A funeral director or establishment is entitled to  
65 rely on and act according to the lawful instructions of any  
66 person claiming to be the next-of-kin of the deceased;  
67 provided however, in any civil cause of action against a  
68 funeral director or establishment licensed pursuant to this  
69 chapter for actions taken regarding the funeral arrangements  
70 for a deceased person in the director's or establishment's  
71 care, the relative fault, if any, of such funeral director  
72 or establishment may be reduced if such actions are taken in  
73 reliance upon a person's claim to be the deceased person's  
74 next-of-kin.

75 5. Any person who desires to exercise the right of  
76 sepulcher and who has knowledge of an individual or  
77 individuals with a superior right to control disposition  
78 shall notify such individual or individuals prior to making  
79 final arrangements.

80 6. If an individual with a superior claim is  
81 **[personally served with written notice from] notified in**  
82 **person or by written notice with delivery confirmation to**  
83 **such person's last known address by** a person with an  
84 inferior claim that such person desires to exercise the  
85 right of sepulcher and the individual so served does not  
86 object within forty-eight hours of **[receipt] such notice,**  
87 such individual shall be deemed to have waived such right.  
88 An individual with a superior right may also waive such  
89 right at any time if such waiver is in writing and dated.

90 7. If there is more than one person in a class who are  
91 equal in priority and the funeral director has no knowledge  
92 of any objection by other members of such class, the funeral

93 director or establishment shall be entitled to rely on and  
94 act according to the instructions of the first such person  
95 in the class to make arrangements; provided that such person  
96 assumes responsibility for the costs of disposition and no  
97 other person in such class provides written notice of his or  
98 her objection. If the funeral director has knowledge that  
99 there is more than one person in a class who are equal in  
100 priority and who do not agree on the disposition, the  
101 decision of the majority of the members of such class shall  
102 control the disposition.

103 8. For purposes of conducting a majority vote under  
104 subsection 7 of this section, the funeral director shall  
105 allow voting by proxy using a written authorization or  
106 instrument.

2 [194.020. When hermetic sealing is  
3 required herein, the burial case, coffin, casket  
4 or box used must be of metal, or of other  
5 material with metal lining, and must be so  
6 constructed that when closed and fastened the  
7 same shall be airtight.]

2 [194.060. No dead human body shall be  
3 offered to or accepted by any common carrier for  
4 transportation unless it is in a burial case,  
5 coffin or casket that is securely closed, and  
6 the burial case, coffin, or casket containing  
7 the body is in a wooden, metal or metal-lined  
8 box that is securely closed, and on the top of  
9 the box must appear the name of the deceased,  
10 the destination, the time and place of death,  
11 the cause of death, the name of the attending  
12 physician or coroner, and the name of the person  
who prepared the body for shipment.]

2 [194.070. The body of any person having  
3 died of Asiatic cholera (cholera), typhus or  
4 ship fever, yellow fever, or bubonic plague,  
5 shall not be offered to or accepted by any  
6 common carrier for transportation unless it  
7 shall have been prepared for shipment in  
8 accordance with section 194.080, and under the  
9 supervision of an officer of the department of  
10 health and senior services, or supervision of a  
11 member of the state board of embalmers and  
12 funeral directors.]

2 [194.080. The body of any person having  
3 died of diphtheria (membranous croup), scarlet  
4 fever (scarlatina or scarlet rash), glanders,  
5 anthrax, leprosy or smallpox shall not be  
6 offered to or accepted by any common carrier for  
7 transportation unless: (1) It shall have been  
8 thoroughly embalmed by arterial and cavity  
9 injection with a disinfecting fluid, the  
10 orifices disinfected and packed with cotton, and  
11 the whole exterior of the body washed with a  
12 disinfecting fluid; or (2) unless it shall have  
13 been completely wrapped in a sheet that is  
14 saturated with a solution of bichloride of  
15 mercury, in the proportion of one ounce of  
16 bichloride of mercury to one gallon of water,  
17 and encased in an airtight metal or metal-lined  
18 burial case, coffin, casket or box that is  
closed and hermetically sealed.]

2 [194.090. The body of any person having  
3 died of tuberculosis, puerperal fever, typhoid  
4 fever, erysipelas, measles, or other dangerous  
5 or communicable diseases other than those  
6 specified in sections 194.070 and 194.080, shall  
7 not be offered to or accepted by any common  
8 carrier for transportation, unless such body  
9 shall have been thoroughly embalmed by arterial  
10 and cavity injection with a disinfecting fluid,  
11 as specified in section 194.080; or, if such  
12 body is not so embalmed, it must be encased in  
13 an airtight metal or metal-lined burial case,  
14 coffin, casket or box that is closed and  
15 hermetically sealed. The body of any person  
16 having died of a disease that is contagious,  
17 infectious or communicable must not be  
18 accompanied by clothing or articles that have  
been exposed to the infection of such disease.]

2 [194.100. The body of any person having  
3 died of a cause or disease that is not  
4 contagious, infectious or communicable, and from  
5 which no offensive odor emits, may be offered to  
6 and accepted by any common carrier for  
7 transportation; provided, the destination can be  
8 reached within twenty-four hours from the time  
9 of death of such person, but if the destination  
10 cannot be reached within twenty-four hours from  
11 the time of such death, then the body must be  
12 thoroughly embalmed by arterial and cavity  
13 injection with a disinfecting fluid, or encased  
14 in an airtight metal or metal-lined burial case,  
15 coffin, casket or box that is closed and  
hermetically sealed.]

2 [194.110. Any person, firm, company or  
3 corporation, or agent thereof, who shall fail,  
4 refuse or neglect to comply with any of the  
provisions of sections 194.010 to 194.110, or

5 any part of such provisions, shall be deemed  
6 guilty of a misdemeanor, and, upon conviction  
7 thereof, shall be fined in the sum of not less  
8 than twenty-five dollars nor more than five  
9 hundred dollars, or by imprisonment in the  
10 county jail for not less than thirty days nor  
11 more than sixty days, or by both such fine and  
12 imprisonment.]

