

State of California
Department of Consumer Affairs
CEMETERY AND FUNERAL BUREAU



**Cremated Remains Disposers Booklet:
Complying With California Law**

*This edition reflects California
Law as of January 1, 2004*

CEMETERY AND FUNERAL BUREAU

1625 North Market Blvd., Suite S-208

Sacramento, California 95834

ADMINISTRATION, ENFORCEMENT & LICENSING

(916) 574-7870 FAX (916) 928-7988

Cremated Remains Disposers

The Department of Consumer Affairs, Cemetery and Funeral Bureau (Bureau) has prepared the following booklet to provide registered cremated remains disposers (CRDs) with information about the lawful scattering of cremated remains in the state of California. The information in this booklet includes: details about registration and renewal requirements for cremated remains disposers; requirements for obtaining state permits to dispose of cremated human remains; state storage requirements; statutory duties of cremated remains disposers; and other applicable state laws. This booklet reflects California law regarding CRDs as of January 1, 2002 contained in the Business and Professions Code (BPC) and the Health and Safety Code (HSC).

Registration

A cremated remains disposer disposes of, or offers to dispose of, cremated human remains by scattering (BPC §§ 9607.6, 9740). To request an *Application for Registration as a Cremated Remains Disposer* or for additional information, contact the Bureau's Licensing Unit at (916) 574-7870. Applications are also available on the Bureau's Web site: www.cfb.ca.gov.

To apply for registration as a cremated remains disposer, an individual must submit a completed application and a registration fee of \$100 (BPC § 9760.5) to the Bureau.

The application for registration requires:

- A written description and identification if aircraft or boats will be used, and the registration and documentation number (BPC § 9741)
 - Aircraft must have a valid certification by the Federal Aviation Administration (BPC § 9742)
 - Boats must be registered with the Department of Motor Vehicles or be documented by a federal agency, as appropriate (BPC § 9742)
 - The current aircraft pilot's license and/or boating license must be posted at the CRD's place of business (BPC § 9741(b))
- The applicant must state any and all additional means used to scatter (i.e., private vehicle, horseback) including a description of the equipment used to scatter, and the applicable registration or documentation number
- The applicant must indicate area(s) to be served (BPC § 9741)
- The applicant must provide the address and phone number of any storage facility being used to store cremated remains (BPC § 9744.5 (a)(2))

The registration must be renewed each year by September 30th (BPC § 9746).

Any person not exempt from registration who scatters cremated remains without a valid registration is guilty of a misdemeanor (BPC § 9748). The following are exempt from registration as a CRD: licensed cemeteries (certificates of authority), crematories, funeral directors, cemetery brokers, cemetery salespersons, and any person with the right to control disposition of the cremated remains or that person's designee, provided the designee does not dispose of more than 10 cremated remains a year (BPC § 9740).

Registration Renewal

Each CRD registration expires annually on September 30th, unless renewed. To renew the registration, a CRD must:

- Complete the renewal form (BPC § 9746)
- Pay the \$50 renewal fee (BPC § 9760.6) plus \$25, if delinquent (BPC § 9747)
- File the Annual Report with the Bureau (BPC §§ 9745, 9746)

Registration will not be renewed until a completed Annual Report is filed with the Bureau (BPC § 9746).

Each CRD must file with the Bureau by September 30th of each year, an Annual Report, covering the fiscal year of July 1 through June 30. This means the report due by September 30 must include all cremated remains scattered from July 1, of the previous year, through June 30, of the year the registration is renewed (BPC §§ 9745, 9746). The Annual Report must include:

- Names of the deceased persons whose cremated remains were disposed of
- Dates that the CRD received the cremated remains
- Names and addresses of the persons who authorized disposal of the remains
- Dates and locations of disposal of the remains
- Means and manner of disposition (BPC § 9745(a))

Throughout the year, each CRD must maintain a current Annual Report (BPC § 9745(a)). The report is subject to inspection by the Bureau (BPC § 9744.5(a)(2)).

Making a willful and material false statement regarding the disposal of cremated remains in the Annual Report is a misdemeanor and can subject the CRD to disciplinary action by the Bureau (BPC § 9745(b)(c)).

Permits for Disposition

Cremated remains may not be scattered unless an *Application and Permit for Disposition of Human Remains* (VS 9) has been obtained from a local registrar of births and deaths (HSC § 103050). When cremated remains are to be scattered, the disposition permit must specify one of the following: name of the cemetery where the cremated remains will be scattered; burial at sea; address or description of the place where the cremated remains shall be scattered (HSC § 103055).

Within 10 calendar days of scattering, the CRD must file the first copy of the permit for disposition with the local registrar of births and deaths in the district in which the disposition took place, and the third copy must be returned to the local registrar where the permit was issued (HSC §§ 103060; 7117(b)). The second copy is retained by the crematory.

If scattering at sea from a boat or from the air, the CRD must also file a copy of the permit for disposition within 10 calendar days with the local registrar of births and deaths in the county nearest the point where the remains were scattered (HSC § 7117(b)).

Within 30 days of scattering, the disposer must provide a photocopy of the fully completed disposition permit to the person with the right to control the disposition of the remains (BPC § 9744).

Cremated remains may not be removed from the place of cremation without a permit issued by the local registrar of births and deaths (HSC § 7055). For more information on contacting the local registrar of births and deaths, consult local or county telephone listings or the California Department of Health Services, Office of Vital Records Web site: www.dhs.ca.gov/hisp.chs/OVR/LocalRegistrar/default.htm.

Scattering

"Scattering" is the authorized dispersal of cremated remains at sea, in other areas of the state, or commingling in a defined area within a dedicated cemetery as provided in the Health and Safety Code (HSC §§ 7010.7, 7116, 7117).

In order to scatter cremated remains, a CRD must have specific written instructions from the individual(s) with the right to control disposition and must scatter in accordance with those instructions (BPC § 9743).

All aircraft used for the scattering shall have a valid certification from the Federal Aviation Administration. All boats or vessels used for the scattering of cremated human remains shall be registered with the Department of Motor Vehicles or a federal agency (BPC § 9742).

The CRD must:

- Dispose of cremated remains within 60 days of the time the remains are received, unless the CRD presents a written, signed reason for the delay to the person(s) with the right to control disposition of the remains (BPC § 9744.5(a)(1))
- Scatter the cremated remains from individual containers. Except with the express written permission of the person with the right to control the disposition of the remains, the law prohibits commingling cremated remains prior to scattering (HSC § 7054.7(a)(2))
- File the disposition permit with the local registrar of births and deaths within 10 calendar days of scattering (HSC § 103060). Within 30 days of scattering, the disposer must provide a photocopy of the fully completed disposition permit to the person with the right to control the disposition of the remains (BPC § 9744)

Scattering at Sea:

- Cremated remains must be removed from their container before the remains are scattered at sea (HSC § 7117(a))
- Scattering at sea cannot take place within 500 yards of the shoreline, and includes the inland navigable waters of the state. Scattering at sea does not include lakes and streams, nor does it include scattering from a bridge or pier (HSC § 7117(c))

Scattering in other areas of the State:

- Cremated remains may be scattered in other areas where no local prohibition exists, provided that written permission to scatter is obtained from the property owner or governing agency. State or local agencies may restrict or prohibit such scattering (HSC § 7116)
- When cremated remains are lawfully scattered in areas other than at sea, they must be removed from their container and not be distinguishable to the public (HSC § 7116)
- Cremated remains may not be disposed of in refuse, or in any manner other than that provided by law (HSC § 7054)

Storage Requirements

The address of the cremated remains storage area must be posted at the CRD's place of business (BPC § 9741(b)).

Cremated remains shall be stored in a place free from exposure to the elements and shall be responsibly maintained until disposal (BPC § 9744.5(a)(2)).

Cremated remains must not be stored in a manner that results in the loss of all or part of the cremated remains or the inability to individually identify the cremated remains (BPC § 9749.3).

Cremated remains must be received in a durable container, and prior to disposition the CRD must:

- Keep the cremated remains in a durable container
- Store the cremated remains in a place free from exposure to the elements
- Responsibly maintain the cremated remains (HSC § 7054.6)

Cremated remains must be scattered from individual containers. The law prohibits commingling cremated remains prior to scattering, except with the express written permission of the person with the right to control the disposition of the remains (HSC § 7054.7(a)(2)).

The CRD must provide the Bureau with the address and phone number of any storage facility used to store cremated remains. The Bureau may inspect any place used for storage of cremated remains without notice to the cremated remains disposer (BPC § 9744.5(a)(2)).

If the address of the CRD business itself or any storage facility used to store cremated remains changes, the CRD must submit a written request to the Cemetery and Funeral Bureau at 1625 North Market Boulevard, Suite S-208, Sacramento CA 95834, and pay a \$25.00 change of address fee (BPC 9761; CCR 2321). Please include the following: licensee name, license number, the new address and contact phone number. This request may also be made by faxing at (916) 928-7988.

Inspection by the Bureau

- The Cemetery and Funeral Bureau conducts random, unannounced inspections of the operations of cremated remains disposers (BPC § 9744.5(a)(2))
- The CRD registration certificate must be posted in public view

Cremated Remains Disposers Booklet: Complying With California Law

- The valid certification and registration for aircraft/vessel/vehicles used during scattering (or if leased, the agreement reflecting the valid registration) must be available during inspection (BPC § 9742)
- The aircraft/vessel/vehicle used in scattering cremated remains is subject to inspection by the Bureau (BPC § 9744.5(a)(2))
- Any place used by the CRD for the storage of cremated remains is subject to unannounced inspection by the Bureau (BPC § 9744.5(a)(2))
- An Inspection Report will be completed, and the CRD will be given a copy of the report upon completion of the inspection. All violations of law identified in the report must be corrected, and may subject the CRD to disciplinary action by the Bureau.

For more information, contact the Cemetery and Funeral Bureau (916) 574-7870, 1625 North Market Blvd., Suite S-208, Sacramento, CA 95834. Our Web site address is www.cfb.ca.gov.

This edition reflects California Law as of January 1, 2004

Business and Professions Code – Cemetery Law

CHAPTER 19. CEMETERIES
Article 6.5. Created Remains Disposers 9740-9749.5

§ 9740. No person shall dispose of or offer to dispose of any cremated human remains unless registered as a cremated remains disposer by the bureau. This article shall not apply to any person, partnership, or corporation holding a certificate of authority as a cemetery, crematory license, cemetery broker's license, cemetery salesperson's license, or funeral director's license, nor shall this article apply to any person having the right to control the disposition of the cremated remains of any person or that person's designee if the person does not dispose of or offer to dispose of more than 10 cremated human remains within any calendar year.

§ 9741. (a) Registration shall be on the form prescribed by the bureau and shall include, but not be limited to, the full name of the registrant, business and residence addresses, description and identification of aircraft or boats which may be used in dispensing cremated human remains, and the area to be served. Each registration application shall be accompanied by the cremated remains disposer fee.

(b) Every registered cremated remains disposer who dispenses human remains by air shall post a copy of his or her current pilot's license, and the address of the cremated remains storage area at his or her place of business. Every registered cremated remains disposer who dispenses human remains by boat shall post a copy of his or her current boating license and the address of the cremated remains storage area at his or her place of business.

§ 9741.1. The bureau shall prepare and deliver to each registered cremated remains disposer a booklet that includes, but is not limited to, the following information: details about the registration and renewal requirements for cremated remains disposers; requirements for obtaining state permits to dispose of cremated human remains; state storage requirements, if any; statutory duties pursuant to this article, and other applicable state laws.

§ 9742. All aircraft used for the scattering of cremated human remains shall be validly certified by the Federal Aviation Administration. All boats or vessels used for the scattering of cremated human remains shall be registered with the Department of Motor Vehicles or documented by a federal agency, as appropriate. The certification or registration shall be available for inspection by the bureau.

§ 9743. A cremated remains disposer who scatters any cremated human remains without specific written instructions from the person having the right to control the disposition of the remains or who scatters any remains in a manner not in accordance with those instructions shall be subject to disciplinary action.

§ 9744. Each cremated remains disposer shall provide the person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code with a copy of the completed permit for disposition of human remains pursuant to Chapter 8 (commencing with Section 103050) of Part 1 of Division 102 of the Health and Safety Code within 30 days of the date of the scattering.

§ 9744.5. (a) Every cremated remains disposer shall do both of the following:

(1) Dispose of cremated remains within 60 days of the receipt of those remains, unless a written signed reason for a delay is presented to the person with the right to control the disposition of the remains under Section 7100 of the Health and Safety Code.

(2) Provide the bureau with the address and phone number of any storage facility being used by the registrant to store cremated remains. Cremated remains shall be stored in a place free from exposure to the elements, and shall be responsibly maintained until disposal. The bureau and its representatives shall conduct, on an annual basis, random inspections of the operations of 5 to 10 percent of the registered cremated remains disposers, and is authorized to inspect any place used by a cremated remains disposer for the storage of cremated remains without notice to the cremated remains disposer.

(b) A violation of the requirements of this section is grounds for disciplinary action.

§ 9745. (a) Each cremated remains disposer shall file, and thereafter maintain an updated copy of, an annual report on a form prescribed by the bureau. The report shall include, but not be limited to, the names of the deceased persons whose cremated remains were disposed of, the dates of receipt of the cremated remains, the names and addresses of the persons who authorized disposal of those remains, the dates and locations of disposal of those remains, and the means and manner of disposition. The report shall cover the fiscal year ending on June 30th and shall be filed with the bureau no later than September 30th of each year.

(b) Any cremated remains disposer that makes a willful and material false statement regarding the disposal of cremated remains in the annual report filed or updated pursuant to subdivision (a) shall be subject to disciplinary action.

(c) Any cremated remains disposer that makes a willful and material false statement in the annual report filed or updated pursuant to subdivision (a) shall be guilty of a misdemeanor.

§ 9746. All cremated remains disposer registrations shall expire at midnight on September 30th of each year. A person desiring to renew his or her registration shall file an application for renewal on a form prescribed by the bureau accompanied by the required fee. A registration that has expired may be renewed within five years of its expiration upon payment of all accrued and unpaid renewal fees. The bureau shall not renew the registration of any person who has not filed the required annual report until he or she has filed a complete annual report with the department.

§ 9747. If a person fails to apply for renewal of his or her cremated remains disposer registration prior to midnight of September 30th of the year for which the registration was issued, no renewal shall be issued except upon payment of an amount equal to the renewal fee plus 50 percent of the renewal fee, but not more than the renewal fee plus twenty-five dollars (\$25).

§ 9748. Any person who scatters cremated human remains without a valid registration and who is not otherwise exempt from this article shall be guilty of a misdemeanor. The remains of each person scattered shall constitute a separate violation.

§ 9749. Any person who scatters any cremated human remains without specific written instructions from the person having the right to control the disposition of the remains or who scatters any remains in a manner not in accordance with those instructions shall be guilty of a misdemeanor.

§ 9749.3. Any cremated remains disposer who stores cremated remains in a reckless manner that results in either of the following is guilty of a public offense punishable by imprisonment in a county jail not exceeding one year or by a fine not to exceed five thousand dollars (\$5,000), or by both that fine and imprisonment:

- (a) Loss of all or part of the cremated remains.
- (b) Inability to individually identify the cremated remains.

§ 9749.5. A cremated remains disposer shall be subject to and shall be disciplined by the bureau in accordance with Article 6 (commencing with Section 9725). Any violation of this article shall also be grounds for disciplinary action.

Health and Safety Code

§ 7010.7. "Scattering" means the authorized dispersal of cremated remains at sea, in other areas of the state, or commingling in a defined area within a dedicated cemetery, in accordance with this part.

§ 7054. (a) 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.

(b) Cremated remains may be disposed of pursuant to Sections 7116, 7117, and 103060, or Sections 7054.6 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 (l) 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.

§ 7054.6. (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 interments 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.

§ 7116. Cremated remains may be scattered in areas where no local prohibition exists, provided that the cremated remains are not distinguishable to the public, are not in a container, and that the person who has control over disposition of the cremated remains has obtained written permission of the property owner or governing agency to scatter on the property. A state or local agency may adopt an ordinance, regulation, or policy, as appropriate, authorizing, consistent with this section, or specifically prohibiting, the scattering of cremated human remains on lands under the agency's jurisdiction. The scattering of the cremated remains of more than one person in one location pursuant to this section shall not create a cemetery pursuant to Section 7003 or any other provision of law.

§ 7117. (a) Cremated remains may be taken by boat from any harbor in this state, or by air, and scattered at sea. Cremated remains shall be removed from their container before the remains are scattered at sea.

(b) Any person who scatters at sea, either from a boat or from the air, any human cremated remains shall, file with the local registrar of births and deaths in the county nearest the point where the remains were scattered, a verified statement containing the name of the deceased person, the time and place of death, the place at which the cremated remains were scattered, and any other information that the local registrar of births and deaths may require. The first copy of the endorsed permit shall be filed with the local registrar of births and deaths within 10 days of disposition. The third copy shall be returned to the office of issuance.

(c) For purposes of this section, the phrase "at sea" includes the inland navigable waters of this state, exclusive of lakes and streams, provided that no such scattering may take place within 500 yards of the shoreline. Nothing in this section shall be construed to allow the scattering of cremated human remains from a bridge or pier.

(d) Notwithstanding any other provision of this code, the cremated remains of a deceased person may be scattered at sea as provided in this section and Section 103060.

Health and Safety Code

CHAPTER 8. PERMITS FOR DISPOSITION OF HUMAN REMAINS..... 103050-103105

§ 103050. No person shall dispose of human remains unless (a) there has been obtained and filed with a local registrar a death certificate, as provided in Chapter 6 (commencing with Section 102775) of this part, and (b) there has been obtained from a local registrar a permit for disposition.

§ 103055. (a) If the certificate of death is properly executed and complete, the local registrar of births and deaths shall issue a permit for disposition, that in all cases, shall specify any one of the following:

- (1) The name of the cemetery where the remains shall be interred.
- (2) Burial at sea as provided in Section 7117.
- (3) The address or description of the place where remains shall be buried or scattered.
- (4) The address of the location where the cremated remains will be kept, as provided in Section 7054.6, under the conditions the state registrar may approve, including, but not limited to, conditions in keeping with public sensibilities, applicable laws, and reasonable assurances that the disposition will be carried out in accordance with the prescribed conditions and will not constitute a private or public nuisance.

(b) Notwithstanding any other provisions of this part relative to issuance of a permit for disposition, whenever the death occurred from a disease declared by the state department to be infectious, contagious, or communicable and dangerous to the public health, no permit for the disposition of the body shall be issued by the local registrar, except under those conditions as may be prescribed by the state department and local health officers.

§ 103060. A permit for disposition for the purpose of removing cremated remains from the place of cremation or interment shall include a description of the final place of disposition sufficient to identify the place and shall be issued by the local registrar to the person having the right to control the disposition of the remains under Section 7100 upon the application of that person.

A permit for disposition shall be issued under this section only upon the signed acknowledgement by the person making application that trespass and nuisance laws apply to the disposition and that the permit gives no right of unrestricted access to property not owned by the person for the purpose of disposing of the remains.

The person to whom the permit for disposition was issued shall sign the permit, endorse upon it the date of final disposition and, within 10 days, return the first copy of the permit so endorsed to the local registrar of the district in which the disposition took place. The third copy of the permit shall be returned to the office of issuance. After one year the local registrar may destroy any original or duplicate permit retained by him or her pursuant to this section.