

CHAPTER 276

(HB 521)

AN ACT relating to the disposition of human remains.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 381.231 is amended to read as follows:

- (1) A "trespasser" means any person who enters or goes upon the real estate of another without any right, lawful authority or invitation, either expressed or implied, but does not include persons who come within the scope of the "attractive nuisance" doctrine.
- (2) An owner of real estate means any person who possesses any interest in real estate or any lawful occupant of real estate, ***including a burial ground.***
- (3) ***"Burial ground" means any public or privately owned parcel of land upon which a person or persons are interred or buried.***

Section 2. KRS 381.697 is amended to read as follows:

- (1) Every cemetery in Kentucky except private family cemeteries shall be maintained by its legal owner or owners, without respect to the individual owners of burial plots in the cemetery, in such a manner so as to keep the burial grounds or cemetery free of growth of weeds, free from accumulated debris, displaced tombstones or other signs and indication of vandalism or gross neglect.
- (2) ***The owner or owners of public or private burial grounds, regardless of size or number of graves, shall protect the burial grounds from desecration or destruction as stipulated in KRS 525.115(1)(a), (b), or (c) or from being used for dumping grounds, building sites, or any other use which may result in the burial grounds being damaged or destroyed. The provisions of this subsection shall not apply to the owner or owners of public or private burial grounds when the public or private burial grounds have been desecrated, damaged, or destroyed as the result of a crime by another as defined by KRS 500.080.***
- (3) ***The owner or owners of private burial grounds shall be required to construct cemetery protection structures only if the burial ground is located in a county with a county cemetery board and if the board provides compensation to the private burial ground owner for supplies, labor, and other expenses associated with such construction.***

SECTION 3. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) ***A county acting under authority of this section may by ordinance create a county cemetery board that may apply to the Department for Local Government for grants to restore and maintain nonprofit cemeteries that do not receive perpetual care funds pursuant to KRS 367.962.***
- (2) ***The county cemetery boards shall meet three (3) times annually in space provided by the fiscal court and shall have five (5) volunteer members with no more than three (3) representing the same political party. Members shall be appointed by the county judge/executive with approval of the fiscal court, shall have lived in the county for at least one (1) year prior to appointment, and shall have demonstrated an interest in cemetery preservation, genealogy, local history, or a related area.***

SECTION 4. A NEW SECTION OF KRS CHAPTER 67 IS CREATED TO READ AS FOLLOWS:

- (1) *The Department for Local Government shall establish a county cemetery fund to receive appropriations, gifts, grants, federal funds, revolving funds, and any other funds from public and private sources.*
 - (a) *Moneys deposited in the fund shall be disbursed by the State Treasurer and any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9).*
 - (b) *Income earned from investment including unallotted or unencumbered balances in the fund shall not lapse, shall be returned to the Department for Local Government, and may be redistributed to other counties.*
- (2) *The Department for Local Government shall promulgate administrative regulations related to responsibilities of the boards, grant appropriation amounts and eligible expenditures, application and reporting procedures, accountability criteria for grant recipients, and other issues of importance to the board's operation.*

SECTION 5. A NEW SECTION OF KRS CHAPTER 307 IS CREATED TO READ AS FOLLOWS:

- (1) *In any instance where the operator of any cemetery is informed or becomes aware that it has improperly interred or has allowed to be improperly interred a body or cremated remains, including but not limited to interment in the wrong space, the burial container shall be disinterred and properly reinterred.*
- (2) *Prior to disinterment and proper reinterment of the body or cremated remains, the cemetery shall give reasonable notice to the next of kin of the deceased and, if requested, the owner of the burial space, informing them of the improper interment and the agreed upon date of the disinterment and proper reinterment.*
- (3) *The expense of the disinterment and proper reinterment shall be paid by the cemetery in which the body or cremated remains were improperly interred.*

Section 6. KRS 525.105 is amended to read as follows:

- (1) A person is guilty of desecration of venerated objects in the first degree when, other than authorized by law, he intentionally excavates or disinters human remains for the purpose of commercial sale or exploitation of the remains themselves or of objects buried contemporaneously with the remains.
- (2) Desecration of venerated objects in the first degree is a Class ~~C~~^D felony.

Section 7. KRS 525.115 is amended to read as follows:

- (1) A person is guilty of violating graves when he intentionally:
 - (a) Mutilates the graves, monuments, fences, shrubbery, ornaments, grounds, or buildings in or enclosing any cemetery or place of sepulture; or
 - (b) Violates the grave of any person by destroying, removing, or damaging the headstone or footstone, or the tomb over the enclosure protecting any grave; or
 - (c) Digs into or plows over or removes any ornament, shrubbery, or flower placed upon any grave or lot.

- (2) The provisions of subsection (1) of this section shall not apply to ordinary maintenance and care of a cemetery nor the removal and relocation of graves pursuant to procedures authorized by and in accordance with applicable statutes.
- (3) Violating graves is ~~is~~ a Class A misdemeanor ~~for the first offense and~~ a Class D felony ~~for each subsequent offense~~.
- (4) The court shall order the defendant to restore the cemetery to its pre-damage condition.

Section 8. KRS 525.120 is amended to read as follows:

- (1) A person is guilty of abuse of a corpse when except as authorized by law he intentionally treats a corpse in a way that would outrage ordinary family sensibilities. ***A person shall also be guilty of abuse of a corpse if that person enters into a contract and accepts remuneration for the preparation of a corpse for burial or the burial or cremation of a corpse and then deliberately fails to prepare, bury, or cremate that corpse in accordance with that contract.***
- (2) Abuse of a corpse is a Class A misdemeanor, unless the act attempted or committed involved sexual intercourse or deviate sexual intercourse with the corpse ***or the deliberate failure to prepare, bury, or cremate a corpse after the acceptance of remuneration in accordance with any contract negotiated,*** in which case it is a Class D felony.

Approved April 9, 2002