



Reprinted
February 19, 2021

SENATE BILL No. 357

DIGEST OF SB 357 (Updated February 18, 2021 3:00 pm - DI 87)

Citations Affected: IC 23-14; IC 30-2.

Synopsis: Cemeteries. Changes a township trustee's duty to remove certain weeds from a cemetery it maintains from "noxious" weeds to "rampant" weeds. Amends the duties of a township trustee to care for and maintain a public cemetery in the township to include: (1) resetting and straightening all monuments; (2) leveling and seeding the ground; and (3) mowing the lawn. Provides that before entering into a sales contract with a consumer, an owner of a cemetery (excluding a county, city, town, or township cemetery) must provide a written description of available goods and services with a price list. Limits the fee charged by a cemetery owner for opening and closing a burial lot of a family member that is one of at least two burial lots purchased in the same transaction. Requires the state board of funeral and cemetery service to take at least the following actions as to a cemetery owner that charges an excessive opening and closing fee: (1) Issue an appropriate order to correct the violation. (2) Suspend the seller's certificate of authority. (3) Censure the cemetery owner. Provides the following are commodities: (1) A foundation. (2) The marking of a lot in preparation for a foundation. Provides that a service fee for marking a lot must be included with the lot purchase price and collected at the same time.

Effective: July 1, 2021.

Mishler, Doriot, Koch, Rogers

January 11, 2021, read first time and referred to Committee on Local Government.
February 15, 2021, amended, reported favorably — Do Pass.
February 18, 2021, read second time, amended, ordered engrossed.

SB 357—LS 7395/DI 142



Reprinted
February 19, 2021

First Regular Session of the 122nd General Assembly (2021)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2020 Regular Session of the General Assembly.

SENATE BILL No. 357

A BILL FOR AN ACT to amend the Indiana Code concerning
business and other associations.

Be it enacted by the General Assembly of the State of Indiana:

1 SECTION 1. IC 23-14-46-7 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 7. **This section does**
3 **not apply to the cemetery of a unit (as defined in IC 36-1-2-23).**
4 Because the owner of a cemetery is responsible for the performance of
5 the care and maintenance of the cemetery, a cemetery owner has the
6 exclusive right to:
7 (1) open and close a grave or grave space, burial space, crypt, or
8 niche in the cemetery;
9 (2) set or install a:
10 (A) marker;
11 (B) monument; or
12 (C) any type of memorial;
13 in the cemetery; and
14 (3) install any kind of foundation or other type of base for the
15 marker, monument, or any type of memorial in the cemetery.
16 This exclusive right may also be exercised by the authorized
17 representative of the owner of the cemetery.

SB 357—LS 7395/DI 142



1 SECTION 2. IC 23-14-46-7.5 IS ADDED TO THE INDIANA
 2 CODE AS A NEW SECTION TO READ AS FOLLOWS
 3 [EFFECTIVE JULY 1, 2021]: **Sec. 7.5. (a) As used in this section,**
 4 **"family member" means a spouse, parent, child, sibling, or other**
 5 **relative.**

6 **(b) As used in this section "fee" means a fee charged to open**
 7 **and close a burial lot.**

8 **(c) This section applies to a burial:**

9 **(1) in one (1) of two (2) or more adjoining burial lots that are**
 10 **purchased in one (1) transaction for the burial of family**
 11 **members; and**

12 **(2) that is the second or any subsequent burial in one (1) of the**
 13 **burial lots described in subdivision (1).**

14 **(d) If the fee for a second or any subsequent burial was not**
 15 **prepaid, the fee for the second or any subsequent burial in the**
 16 **burial lots described in subsection (c)(1) is limited by the following:**

17 **(1) If the second or any subsequent burial occurs:**

18 **(A) after June 30, 2021; and**

19 **(B) not later than ten (10) years after the first burial;**

20 **the cemetery owner may not charge a fee for the second or**
 21 **any subsequent burial that exceeds the fee charged for the**
 22 **first burial by more than twenty percent (20%), regardless of**
 23 **whether the fee for the first burial was prepaid or was not**
 24 **prepaid.**

25 **(2) If the second or any subsequent burial occurs:**

26 **(A) after June 30, 2021; and**

27 **(B) more than ten (10) years after the first burial;**

28 **the cemetery owner may not charge a fee for the second or**
 29 **any subsequent burial that exceeds the fee charged for the**
 30 **first burial by more than thirty percent (30%), regardless of**
 31 **whether the fee for the first burial was prepaid or was not**
 32 **prepaid.**

33 **(e) The state board of funeral and cemetery service that finds a**
 34 **violation of this section shall at a minimum, take an action under:**

35 **(1) IC 25-15-9-10(3)(A);**

36 **(2) IC 25-15-9-10(3)(B); and**

37 **(3) IC 25-15-9-10(3)(C).**

38 SECTION 3. IC 23-14-46-9 IS ADDED TO THE INDIANA CODE
 39 AS NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY
 40 1, 2021]: **Sec. 9. (a) This section does not apply to the cemetery of**
 41 **a unit (as defined in IC 36-1-2-23).**

42 **(b) When selling goods or services to a consumer, a cemetery**



1 **owner or authorized representative of the cemetery owner shall**
 2 **give a consumer a signed written statement that includes an**
 3 **itemized description of all goods and services that the consumer**
 4 **may purchase and the price of each item before entering into a**
 5 **contract. The written statement must contain the effective date of**
 6 **the itemized description.**

7 SECTION 4. IC 23-14-47-2.5 IS ADDED TO THE INDIANA
 8 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 9 [EFFECTIVE JULY 1, 2021]: **Sec. 2.5. A foundation for a monument**
 10 **is a commodity.**

11 SECTION 5. IC 23-14-68-3, AS AMENDED BY P.L.14-2018,
 12 SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 13 JULY 1, 2021]: Sec. 3. For the purposes of this chapter, the
 14 maintenance of a cemetery includes the following:

- 15 (1) Resetting and straightening all monuments.
- 16 (2) Leveling and seeding the ground.
- 17 (3) Constructing fences where there are none and repairing
 18 existing fences.
- 19 (4) Destroying and cleaning up detrimental plants (as defined in
 20 IC 15-16-8-1), **noxious rampant** weeds, and rank vegetation.
- 21 (5) Mowing the lawn.

22 SECTION 6. IC 23-14-69-3, AS AMENDED BY P.L.2-2008,
 23 SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE
 24 JULY 1, 2021]: Sec. 3. A township trustee shall care for and maintain
 25 each cemetery to which this chapter applies that is located in the
 26 township. ~~keeping the cemeteries in a respectable condition by:~~ **The**
 27 **duties of a township trustee under this chapter include the**
 28 **following:**

- 29 (1) Destroying detrimental plants (as defined in IC 15-16-8-1),
 30 **noxious rampant** weeds, and rank vegetation. ~~and;~~
- 31 (2) Removing all unsightly accumulations and debris.
- 32 **(3) Resetting and straightening all monuments.**
- 33 **(4) Leveling and seeding the ground.**
- 34 **(5) Mowing the lawn.**

35 SECTION 7. IC 30-2-13-8 IS AMENDED TO READ AS
 36 FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 8. As used in this
 37 chapter, "prepaid services or merchandise" or "services or
 38 merchandise" includes personal property or services:

- 39 (1) typically sold or provided in connection with the final
 40 disposition or memorialization of human remains, including:
 41 (A) caskets or other primary containers, including rental,
 42 temporary, or disposable caskets or containers;



- 1 (B) outer burial containers;
 2 (C) cremation or transportation containers;
 3 (D) funeral clothing or accessories;
 4 (E) monuments;
 5 (F) grave markers;
 6 **(G) foundations, including the marking of a lot, plot, burial**
 7 **space, or section for purposes of identifying the area to be**
 8 **prepared for a foundation as set forth in section 11.7 of this**
 9 **chapter;**
 10 ~~(G)~~ (H) cremation urns;
 11 ~~(H)~~ (I) embalming services;
 12 ~~(I)~~ (J) funeral directing services provided at the time of death
 13 and in connection with the final disposition of human remains;
 14 ~~(J)~~ (K) final date carving fees, including carving fees for
 15 double monuments;
 16 ~~(K)~~ (L) cremation;
 17 ~~(L)~~ (M) cremation services;
 18 ~~(M)~~ (N) other funeral and burial items, including items of
 19 service or merchandise that may be rented or leased; and
 20 ~~(N)~~ (O) services or merchandise otherwise described as cash
 21 advance items under section 11.5 of this chapter and sold
 22 directly by the seller and not provided by a third person; and
 23 (2) purchased in advance of need to be provided or delivered after
 24 the death of the purchaser or individual for whom services or
 25 merchandise are to be provided in the contract.
- 26 SECTION 8. IC 30-2-13-11.7 IS ADDED TO THE INDIANA
 27 CODE AS A NEW SECTION TO READ AS FOLLOWS
 28 [EFFECTIVE JULY 1, 2021]: **Sec. 11.7. A cemetery owner:**
 29 **(1) shall clearly mark a lot, plot, burial space, or section for**
 30 **purposes of identifying the area to be prepared for a**
 31 **foundation; and**
 32 **(2) may not charge a fee for providing the service described**
 33 **in subdivision (1) unless the fee is:**
 34 **(A) included in the purchase price for the lot, plot, burial**
 35 **space, or section; and**
 36 **(B) collected at the same time and in the same manner that**
 37 **the purchase price for the lot, plot, burial space, or section**
 38 **is collected.**



COMMITTEE REPORT

Madam President: The Senate Committee on Local Government, to which was referred Senate Bill No. 357, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 1, delete lines 1 through 17.

Page 2, delete lines 1 through 9.

Page 2, line 11, after "(a)" insert **"This section does not apply to the cemetery of a unit (as defined in IC 36-1-2-23)."**.

Page 2, line 11, reset in roman "Because".

Page 2, line 11, delete "The" and insert "the".

Page 2, line 13, delete "but".

Page 2, line 13, delete "and lot owner".

Page 2, line 13, reset in roman "has".

Page 2, line 14, delete "have".

Page 2, line 14, reset in roman "exclusive".

Page 2, line 24, reset in roman "exclusive".

Page 2, after line 36, begin a new paragraph and insert:

"SECTION 3. IC 23-14-46-7.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 7.5. (a) As used in this section, "family member" means a spouse, parent, child, sibling, or other relative.

(b) As used in this section "fee" means a fee charged to open and close a burial lot.

(c) This section applies to a burial:

(1) in one (1) of two (2) or more adjoining burial lots that are purchased in one (1) transaction for the burial of family members; and

(2) that is the second or any subsequent burial in one (1) of the burial lots described in subdivision (1).

(d) If the fee for a second or any subsequent burial was not prepaid, the fee for the second or any subsequent burial in the burial lots described in subsection (c)(1) is limited by the following:

(1) If the second or any subsequent burial occurs not later than ten (10) years after the first burial, the cemetery owner may not charge a fee for the second or any subsequent burial that exceeds the fee charged for the first burial by more than twenty percent (20%), regardless of whether the fee for the first burial was prepaid or was not prepaid.

(2) If the second or any subsequent burial occurs more than ten (10) years after the first burial, the cemetery owner may



not charge a fee for the second or any subsequent burial that exceeds the fee charged for the first burial by more than thirty percent (30%), regardless of whether the fee for the first burial was prepaid or was not prepaid.

(e) The state board of funeral and cemetery service that finds a violation of this section shall at a minimum, take an action under:

- (1) IC 25-15-9-10(3)(A);
- (2) IC 25-15-9-10(3)(B); and
- (3) IC 25-15-9-10(3)(C).

SECTION 4. IC 23-14-46-9 IS ADDED TO THE INDIANA CODE AS NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 9. (a) This section does not apply to the cemetery of a unit (as defined in IC 36-1-2-23).**

(b) When selling goods or services to a consumer, a cemetery owner or authorized representative of the cemetery owner shall give a consumer a signed written statement that includes an itemized description of all goods and services that the consumer may purchase and the price of each item before entering into a contract. The written statement must contain the effective date of the itemized description.

SECTION 5. IC 23-14-47-2.5 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 2.5. A foundation for a monument is a commodity.**

SECTION 6. IC 23-14-68-3, AS AMENDED BY P.L.14-2018, SECTION 9, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 3.** For the purposes of this chapter, the maintenance of a cemetery includes the following:

- (1) Resetting and straightening all monuments.
- (2) Leveling and seeding the ground.
- (3) Constructing fences where there are none and repairing existing fences.
- (4) Destroying and cleaning up detrimental plants (as defined in IC 15-16-8-1), **noxious rampant** weeds, and rank vegetation.
- (5) Mowing the lawn.

SECTION 7. IC 23-14-69-3, AS AMENDED BY P.L.2-2008, SECTION 49, IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 3.** A township trustee shall care for and maintain each cemetery to which this chapter applies that is located in the township. **keeping the cemeteries in a respectable condition by: The duties of a township trustee under this chapter include the following:**



- (1) Destroying detrimental plants (as defined in IC 15-16-8-1), ~~noxious rampant~~ weeds, and rank vegetation. ~~and;~~
- (2) Removing all unsightly accumulations and debris.
- (3) Resetting and straightening all monuments.**
- (4) Leveling and seeding the ground.**
- (5) Mowing the lawn.**

SECTION 8. IC 30-2-13-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: Sec. 8. As used in this chapter, "prepaid services or merchandise" or "services or merchandise" includes personal property or services:

- (1) typically sold or provided in connection with the final disposition or memorialization of human remains, including:
 - (A) caskets or other primary containers, including rental, temporary, or disposable caskets or containers;
 - (B) outer burial containers;
 - (C) cremation or transportation containers;
 - (D) funeral clothing or accessories;
 - (E) monuments;
 - (F) grave markers;
 - (G) foundations;**
 - ~~(H)~~ **(H)** cremation urns;
 - ~~(I)~~ **(I)** embalming services;
 - ~~(J)~~ **(J)** funeral directing services provided at the time of death and in connection with the final disposition of human remains;
 - ~~(K)~~ **(K)** final date carving fees, including carving fees for double monuments;
 - ~~(L)~~ **(L)** cremation;
 - ~~(M)~~ **(M)** cremation services;
 - ~~(N)~~ **(N)** other funeral and burial items, including items of service or merchandise that may be rented or leased; and
 - ~~(O)~~ **(O)** services or merchandise otherwise described as cash advance items under section 11.5 of this chapter and sold directly by the seller and not provided by a third person; and
- (2) purchased in advance of need to be provided or delivered after the death of the purchaser or individual for whom services or merchandise are to be provided in the contract."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 357 as introduced.)

SB 357—LS 7395/DI 142



BUCK, Chairperson

Committee Vote: Yeas 7, Nays 0.

 SENATE MOTION

Madam President: I move that Senate Bill 357 be amended to read as follows:

Page 1, line 2, delete "(a)".

Page 2, delete lines 1 through 11.

Page 2, line 28, delete "occurs" and insert "**occurs:**

(A) after June 30, 2021; and

(B)".

Page 2, line 29, delete "burial," and insert "**burial;**".

Page 2, line 29, beginning with "the cemetery owner" begin a new line block indented.

Page 2, line 34, delete "occurs" and insert "**occurs:**

(A) after June 30, 2021; and

(B)".

Page 2, line 35, delete "burial," and insert "**burial;**".

Page 2, line 35, beginning with "the cemetery" begin a new line block indented.

Page 4, line 13, delete "foundations;" and insert "**foundations, including the marking of a lot, plot, burial space, or section for purposes of identifying the area to be prepared for a foundation as set forth in section 11.7 of this chapter;**".

Page 4, after line 29, begin a new paragraph and insert:

"SECTION 7. IC 30-2-13-11.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2021]: **Sec. 11.7. A cemetery owner:**

(1) shall clearly mark a lot, plot, burial space, or section for purposes of identifying the area to be prepared for a foundation; and

(2) may not charge a fee for providing the service described in subdivision (1) unless the fee is:

(A) included in the purchase price for the lot, plot, burial space, or section; and

(B) collected at the same time and in the same manner that the purchase price for the lot, plot, burial space, or section is collected."

SB 357—LS 7395/DI 142



Renumber all SECTIONS consecutively.

(Reference is to SB 357 as printed February 16, 2021.)

MISHLER

