

SENATE BILL 776

By Overbey

AN ACT to amend Tennessee Code Annotated, Title 46
and Title 68, relative to disinterment.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 46, Part 1, is amended to add the following as a new section thereto:

Section 46-1-112.

(a) When a cemetery operator has actual knowledge of an error in the assignment of an interment right, a cemetery operator shall have the right to correct such error pursuant to this section. For the purposes of this section, "interment right" means the same as defined in § 46-1-102(14).

(b) When a cemetery operator has knowledge that the interment of human remains has occurred in the wrong burial location in the cemetery, the cemetery operator shall make all reasonable effort to give notice by certified mail, in advance of any corrective action, to any known family or next of kin of the deceased person at the last known address of such family and shall make all reasonable effort to give notice by certified mail, in advance of any corrective action, to the owner of the burial plot in question.

(c) After giving notice to any known family, the cemetery operator:

- (1) May disinter the burial container wrongfully interred without a state or local permit;
- (2) Shall identify the burial container; and
- (3) Reinter the burial container in the proper burial space in the same cemetery.

(d) At the time specified for a disinterment and reinterment, the cemetery shall allow the nearest known next of kin, and if requested, the owner of such burial space, to witness the disinterment and reinterment.

(e) The cemetery shall bear all costs of the disinterment and reinterment.

(f) The cemetery shall notify the commissioner of the error, the interment in the wrong location, and the steps taken pursuant to this section to remedy the wrongful interment.

(g) The cemetery shall also notify the commission of health of the error, the interment in the wrong location, the disinterment of the decedent, and the steps taken pursuant to this section to remedy the wrongful interment.

(h) When the cemetery follows the approved procedures for correcting a wrongful burial due to human error in recording ownership of an interment right, or due to human error in the burial, the cemetery company, its employees, and its board of directors or officers shall be held harmless and not liable for any damages unless such cemetery company, its employees or its board of directors or officers acted intentionally or with malice in such wrongful interment.

SECTION 2. Tennessee Code Annotated, Section 68-4-110, is amended to designate the existing language as subsection (a) and adding the following as new subsection (a):

(b) The department of health may not require permits for the disinterment of a wrongfully buried decedent if such disinterment is pursuant to § 46-1-112 and the cemetery operator follows all procedures as set out in that section.

SECTION 3. Tennessee Code Annotated, Section 46-1-204(e)(4)(D)(i), is amended by deleting the language "July 1, 2005" and by substituting instead the language "December 31, 2008".

SECTION 4. This act shall take effect upon becoming a law, the public welfare requiring it.