

CHAPTER 324

AN ACT concerning the regulation of certain cemeteries, amending P.L.2003, c.261 and repealing various provisions of the statutory law.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. Section 22 of P.L.2003, c.261 (C.45:27-22) is amended to read as follows:

C.45:27-22 Control of funeral, disposition of remains.

22. a. If a decedent, in a will as defined in N.J.S.3B:1-2, appoints a person to control the funeral and disposition of the human remains, the funeral and disposition shall be in accordance with the instructions of the person so appointed. A person so appointed shall not have to be executor of the will. The funeral and disposition may occur prior to probate of the will, in accordance with section 40 of P.L.2003, c.261 (C.3B:10-21.1). If the decedent has not left a will appointing a person to control the funeral and disposition of the remains, the right to control the funeral and disposition of the human remains shall be in the following order, unless other directions have been given by a court of competent jurisdiction:

- (1) The surviving spouse of the decedent.
- (2) A majority of the surviving adult children of the decedent.
- (3) The surviving parent or parents of the decedent.
- (4) A majority of the brothers and sisters of the decedent.
- (5) Other next of kin of the decedent according to the degree of consanguinity.
- (6) If there are no known living relatives, a cemetery may rely on the written authorization of any other person acting on behalf of the decedent.

b. A cemetery may permit the disposition of human remains on the authorization of a funeral director handling arrangements for the decedent, or on the written authorization of a person who claims to be, and is believed to be, a person who has the right to control the disposition. The cemetery shall not be liable for disposition pursuant to this authorization unless it had reasonable notice that the person did not have the right to control the disposition.

c. A cemetery shall not bury human remains of more than one person in a grave unless:

- (1) directions have been given for the burials in accordance with this section on behalf of all persons so buried; or
- (2) the rights to be buried in the grave were sold by the cemetery with explicit provision allowing separate sales of rights to burial at different depths in the grave.

d. A person who signs an authorization for the funeral and disposition of human remains warrants the truth of the facts stated, the identity of the person whose remains are disposed and the authority to order the disposition. The person shall be liable for damages caused by a false statement or breach of warranty. A cemetery or funeral director shall not be liable for disposition in accordance with the authorization unless it had reasonable notice that the representations were untrue or that the person lacked the right to control the disposition.

e. An action against a cemetery company relating to the disposition of human remains left in its temporary custody may not be brought more than one year from the date of delivery of the remains to the cemetery company unless otherwise provided by a written contract.

Repealer.

2. Section 42 of P.L.2003, c.261 is amended to read as follows:

42. N.J.S.3B:10-21, N.J.S.8A:1-1 et seq., sections 20 and 21 of P.L.1973, c.219 (C.8A:5-23 and 8A:5-24), section 25 of P.L.1973, c.219 (C.8A:6-1.1), section 28 of P.L.1973, c.219 (C.8A:7-3.1), sections 1 and 2 of P.L.1979, c.200 (C.8A:5-18.1 and 8A:5-18.2), section 2 of P.L.1979, c.255 (C.8A:3-14.1) and P.L.2001, c.439 (C.8A:3-14.2) are repealed.

3. This act shall take effect on April 13, 2004 and if approved after that date, the act shall be retroactive to April 13, 2004.

Approved January 12, 2006.