~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

April 14, 2010

**H. 4438**

Introduced by Rep. J.E. Smith

S. Printed 4/14/10--H. [SEC 4/15/10 4:36 PM]

Read the first time January 27, 2010.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4438) to amend Section 32‑8‑320, Code of Laws of South Carolina, 1976, relating to persons who may serve as a decedent’s agent to authorize cremation, so, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass:

JAMES H. HARRISON for Committee.

**A** **BILL**

TO AMEND SECTION 32‑8‑320, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO PERSONS WHO MAY SERVE AS A DECEDENT’S AGENT TO AUTHORIZE CREMATION, SO AS TO ALSO PERMIT A PERSON NAMED in the decedent’s United States Department of Defense Record of Emergency Data (DD Form 93) or its successor form, if the decedent died while serving in any branch of the United States Armed Services as defined in 10 U.S.C. Section 1481 and completed such form.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Section 32‑8‑320 of the 1976 Code is amended to read:

“Section 32‑8‑320. (A) In the following order of priority these persons may serve as a decedent’s agent and in the absence of a preneed cremation authorization may authorize cremation of the decedent:

(1) the person designated as agent for this purpose by the decedent in a will or other verified and attested document, or the person named in the decedent’s United States Department of Defense Record of Emergency Data (DD Form 93) or its successor form, if the decedent died while serving in any branch of the United States Armed Services as defined in 10 U.S.C. Section 1481 and completed such form;

(2) the spouse of the decedent at the time of the decedent’s death;

(3) the decedent’s surviving adult children;

(4) the decedent’s surviving parents;

(5) the persons in the next degree of kinship under the laws of descent and distribution to inherit the estate of the decedent.

(B) In the absence of a person serving as a decedent’s agent pursuant to subsection (A), the following may serve as an agent and may authorize a decedent’s cremation:

(1) a person serving as executor or legal representative of the decedent’s estate and acting according to the decedent’s written instructions;

(2) a public administrator, medical examiner, coroner, state appointed guardian, or other public official charged with arranging the final disposition of the decedent if the decedent is indigent or if the final disposition is the responsibility of the State or an instrumentality of the State.

(C) If a dispute arises among persons of equal priority, as provided for in subsection (A), concerning the cremation of a decedent, the matter must be resolved by order of the probate court.”

SECTION 2. This act takes effect upon approval by the Governor.

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