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## A BILL FOR AN ACT

RELATING TO DEAD HUMAN BODIES.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 327, Hawaii Revised Statutes, is  
2 amended by adding a new part to be appropriately designated and  
3 to read as follows:

4           **"PART . COMMERCIAL DISPLAY OF DEAD HUMAN BODIES"**

5           **§327-A Definitions.** As used in this part:

6           "Commercial display" means either of the following:

- 7           (1) A display for which the public is charged a fee or  
8                 other consideration as a condition of viewing; or  
9           (2) A display for which an exhibitor accepts payment or  
10                 other consideration.

11           "Dead human body" means either of the following:

- 12           (1) A lifeless human body, or any part of a lifeless human  
13                 body, including the bones thereof, from the state of  
14                 which it reasonably may be concluded that death  
15                 recently occurred; or  
16           (2) Plastinated human bodies or remains, including tissue,  
17                 organs, and other body parts, that are preserved from



1           decay by replacing the water and fats in the human  
2           remains with a polymer.

3           "Department" means the department of health.

4           "Director" means the director of health.

5           "Exhibitor" means a person or entity that publicly displays  
6 or contracts to publicly display dead human bodies.

7           "Museum facility" means a public or private nonprofit  
8 institution that:

9           (1) Is accredited by the American Association of Museums  
10           or is part of an accredited college or university;

11           (2) Is organized on a permanent basis for essentially  
12           educational or aesthetic purposes; and

13           (3) Owns or uses tangible objects, cares for those  
14           objects, and exhibits them to the general public on a  
15           regular basis.

16           **§327-B Commercial display of dead human bodies;**

17 **prohibition; exceptions.** (a) Except as provided in subsection

18 (b), a public commercial display of dead human bodies is

19 prohibited unless a permit for the display has been issued by  
20 the department, pursuant to section 327-C.

21           (b) This section shall not apply to a display of a dead  
22 human body that is any of the following:



- 1 (1) More than eighty years old;
- 2 (2) Consisting solely of human teeth or hair;
- 3 (3) Part of the ordinary display or viewing of a deceased
- 4 at a funeral establishment or part of a similar
- 5 funeral or memorial service;
- 6 (4) An object of religious veneration; or
- 7 (5) In the possession of a museum facility; provided that
- 8 if the museum facility paid or offered other
- 9 consideration to an exhibitor to display the body, and
- 10 the body is not exempt pursuant to paragraphs (1) to
- 11 (4), inclusive, the exhibitor shall be required to
- 12 obtain a permit pursuant to section 327-C.

13 **§327-C Commercial display of dead human bodies;**  
14 **requirements for permit; fee.** (a) The department may issue a  
15 permit to any person for the purpose described in section 327-B  
16 only upon a determination by the director that the person has  
17 met the requirements to exhibit dead human bodies, which shall  
18 be adopted as rules by the department in accordance with section  
19 327-G. The rules shall include, but not be limited to, a  
20 requirement that valid written authorization to publicly display  
21 a dead human body for consideration has been obtained from any  
22 of the following individuals:



1           (1) The decedent, including, but not limited to,  
2                   authorization given by will; or

3           (2) A person authorized to make an anatomical gift under  
4                   the Revised Uniform Anatomical Gift Act, sections 327-  
5                   4 and 327-9.

6           (b) If the dead human body is that of a minor, the valid  
7                   written authorization required by subsection (a) shall be  
8                   executed by the minor's parent or legal guardian.

9           (c) The amount of the fee for a permit issued pursuant to  
10                   this section shall be determined by the department and shall be  
11                   no more than what is reasonably necessary to fund the  
12                   administration of this chapter.

13           **§327-D Human remains exhibit fund.** There is established  
14                   in the state treasury the human remains exhibit permit fund,  
15                   into which shall be deposited the fees collected pursuant to  
16                   section 327-C(c). The department shall use the moneys in this  
17                   fund for the purposes of administering this chapter.

18           **§327-E Anatomical gifts permitted.** Nothing in this  
19                   chapter shall be construed to apply to the utilization of dead  
20                   human bodies in a manner that meets the purposes set forth in  
21                   the Revised Uniform Anatomical Gift Act.



1           **§327-F Publication and broadcast permitted.** Nothing in  
2 this chapter shall be construed to apply to the publisher of any  
3 newspaper, periodical, or other publication; the producer of a  
4 motion picture or other visual or audiovisual work; any radio or  
5 television broadcaster, or the owner or operator of any cable,  
6 satellite, or other medium of communication who broadcasts,  
7 produces, or publishes, including over the Internet.

8           **§327-G Rules.** (a) The department shall adopt rules  
9 pursuant to chapter 91 necessary for the purposes of this  
10 chapter, including, but not limited to, rules that prescribe the  
11 requirements described in section 327-C.

12           (b) Notwithstanding any other provision of law, whenever  
13 the department is authorized or required by statute, rule, or  
14 due process to conduct an adjudicative hearing leading to a  
15 final decision of the director, the proceeding shall be  
16 conducted pursuant to the administrative adjudication provisions  
17 of chapter 91.

18           **§327-H Preemption.** Nothing in this chapter shall preempt  
19 county regulation of the public commercial display of dead human  
20 bodies. An ordinance passed either before or after January 1,  
21 2010, on the same subject is not preempted provided that the



1 restrictions contained therein are more restrictive than those  
2 contained in rules adopted pursuant to this chapter."

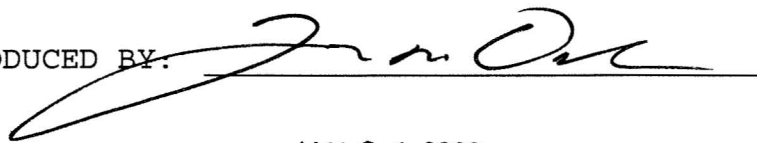
3 SECTION 2. This Act does not affect rights and duties that  
4 matured, penalties that were incurred, and proceedings that were  
5 begun, before its effective date.

6 SECTION 3. In codifying the new sections added by section  
7 1 of this Act, the revisor of statutes shall substitute  
8 appropriate section numbers for the letters used in designating  
9 the new sections in this Act.

10 SECTION 4. This Act shall take effect on July 1, 2009.

11

INTRODUCED BY:



JAN 21 2009



**Report Title:**

Dead Bodies; Commercial Display

**Description:**

Prohibits the commercial display of dead human bodies without a permit from the department of health.

