

FILED JAN 23 2006

STATE GOVERNMENT

SENATE FILE 2004
BY BLACK

Passed Senate, Date _____ Passed House, Date _____
Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
Approved _____

A BILL FOR

1 An Act relating to the transfer of veterans commemorative
2 property placed in a cemetery, recodifying a provision
3 regarding veteran markers, and providing a penalty.
4 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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STATE GOVERNMENT

SF 2004

1 Section 1. Section 35A.5, Code Supplement 2005, is amended
2 by adding the following new subsection:

3 NEW SUBSECTION. 11. Authorize the sale, trade, or
4 transfer of veterans commemorative property pursuant to
5 chapter 37A.

6 Sec. 2. NEW SECTION. 37A.1 VETERANS COMMEMORATIVE
7 PROPERTY.

8 1. For purposes of this chapter, unless the context
9 otherwise requires:

10 a. "Cemetery" means as defined in section 523I.102, but
11 includes pioneer cemeteries. "Cemetery" does not include
12 religious cemeteries as defined in section 523I.102 that
13 commenced business prior to July 1, 2005.

14 b. "Department" means the Iowa department of veterans
15 affairs.

16 c. "Veteran" means a deceased person who served in the
17 armed forces of the United States during a war in which the
18 United States was engaged or served full-time in active duty
19 in a force of an organized state militia, excluding service in
20 the national guard when in an inactive status.

21 d. "Veterans commemorative property" means any memorial as
22 defined in section 523I.102, including a headstone, plaque,
23 statue, urn, decoration, flag holder, badge, shield, item of
24 memorabilia, or other embellishment, that meets all of the
25 following criteria:

26 (1) Is over seventy-five years old.

27 (2) Identifies or commemorates any veteran or group of
28 veterans, including any veterans organization or any military
29 unit, company, battalion, or division.

30 (3) Has been placed in a cemetery.

31 e. "Veterans organization" means the grand army of the
32 republic, sons of union veterans of the civil war, sons of
33 confederate veterans, veterans of foreign wars, disabled
34 American veterans, united Spanish war veterans, the Jewish war
35 veterans of the United States, inc., the catholic war

1 veterans, inc., American legion, American veterans of World
2 War II, Italian American war veterans of the United States,
3 inc., or other corporation or association of veterans.

4 2. A person who owns or controls a cemetery where any
5 veterans commemorative property has been placed shall not
6 sell, trade, or transfer any part of such veterans
7 commemorative property unless the department authorizes the
8 person to do so. The department may authorize the sale,
9 trade, or transfer based upon the following criteria:

10 a. The veterans commemorative property is at reasonable
11 risk of physically deteriorating so that it will become
12 unrecognizable as identifying or commemorating the veteran or
13 group of veterans originally identified or commemorated.

14 b. The veterans commemorative property is proposed to be
15 sold, traded, or transferred to a suitable person that will
16 preserve the current condition of the veterans commemorative
17 property and place it in a suitable place that will
18 commemorate the veteran or group of veterans.

19 c. The person needs to sell, trade, or transfer the
20 veterans commemorative property to ensure that sufficient
21 funds are available to suitably maintain the cemetery where
22 the veterans commemorative property is placed, and the
23 specific lot, plot, grave, burial place, niche, crypt, or
24 other place of interment of such veteran or group of veterans.

25 d. The veterans commemorative property that is to be sold,
26 traded, or transferred will be replaced at its original site
27 by a fitting replacement commemorative property, monument, or
28 marker that appropriately identifies and commemorates the
29 veteran or group of veterans.

30 e. If the person reasonably believes that the veterans
31 commemorative property to be sold, traded, or transferred was
32 donated by a veterans organization, the veterans organization
33 consents to the sale, trade, or transfer of the veterans
34 commemorative property.

35 f. If the person is not the owner of the veterans

1 commemorative property that is to be sold, traded, or
2 transferred, the person is authorized by the owner of such
3 veterans commemorative property, or by operation of law other
4 than this section, to sell, trade, or transfer the veterans
5 commemorative property and to retain and use the proceeds of
6 the sale, trade, or transfer.

7 3. A person who engages in the sale, trade, or transfer of
8 veterans commemorative property without the authorization of
9 the department pursuant to this section is guilty of a simple
10 misdemeanor.

11 4. The department may adopt rules in accordance with
12 chapter 17A to administer this chapter.

13 Sec. 3. CODE EDITOR DIRECTIVE. The Code editor is
14 directed to transfer section 714.7A regarding theft of a
15 veteran's grave marker to chapter 35B as section 35B.16A.

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EXPLANATION

17 This bill prohibits the unauthorized sale, trade, or
18 transfer of veterans commemorative property; a person that
19 engages in an unauthorized sale, trade, or transfer of
20 veterans commemorative property is guilty of a simple
21 misdemeanor. A simple misdemeanor is punishable by
22 confinement for no more than 30 days or a fine of at least \$50
23 but not more than \$500 or by both.

24 Any type of memorial more than 75 years old that
25 commemorates or identifies a veteran or a group of veterans
26 and rests in a cemetery qualifies as veterans commemorative
27 property. The bill also contains definitions for "cemetery",
28 "veteran", and "veterans organization". "Cemetery" does not
29 include certain restricted private burial sites, but does
30 include pioneer cemeteries, i.e., a cemetery where there were
31 six or fewer burials in the preceding 50 years. The bill does
32 not apply to religious cemeteries, as defined in Code section
33 523I.102, that commenced operation prior to July 1, 2005; this
34 is consistent with the Iowa Cemetery Act passed in 2005.

35 A person who owns or controls a cemetery where any veterans

1 commemorative property is placed is required to obtain
2 authorization from the Iowa department of veterans affairs to
3 sell, trade, or transfer all or any part of such veterans
4 commemorative property. The department may authorize the
5 sale, trade, or transfer, based upon specific criteria as
6 follows.

7 1. The veterans commemorative property is at reasonable
8 risk of physically deteriorating so that the commemoration or
9 identification will become unrecognizable.

10 2. The person who owns or controls a cemetery needs to
11 sell, trade, or transfer veterans commemorative property in
12 order to adequately maintain the cemetery and place of
13 interment of the veteran or group of veterans.

14 3. The veterans commemorative property to be sold, traded,
15 or transferred will be replaced with a suitable replacement
16 that identifies and commemorates the veteran or group of
17 veterans.

18 4. If the veterans commemorative property was donated by a
19 veterans organization, such donor consents to the sale, trade,
20 or transfer.

21 5. The person, if not the owner of the veterans
22 commemorative property, is authorized to sell, trade, or
23 transfer such property and retain and use the resulting
24 proceeds.

25 The bill allows the department to adopt rules needed to
26 administer the new Code chapter.

27 The bill directs the Code editor to transfer Code section
28 714.7A to Code chapter 35B as section 35B.16A. This provision
29 deals with theft of a veteran's grave marker. Code chapter
30 35B provides for veteran markers and other veterans affairs
31 matters. Code chapter 714 covers theft, fraud, and related
32 offenses, in general.

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