
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 488

Session of
1987

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REFERRED TO COMMITTEE ON STATE GOVERNMENT, MARCH 2, 1987

AN ACT

1 Providing for the prevention of unfair or deceptive acts and
2 practices by funeral directors.

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11 The General Assembly of the Commonwealth of Pennsylvania
12 hereby enacts as follows:

13 Section 1. Short title.

14 This act shall be known and may be cited as the Funeral
15 Director Practices Act.

16 Section 2. Definitions.

17 The following words and phrases when used in this act shall
18 have the meanings given to them in this section unless the
19 context clearly indicates otherwise:

20 "Accounting year." The particular calendar year or other
21 one-year period used by a funeral provider in keeping financial
22 records for tax or accounting purposes.

23 "Alternative container." A nonmetal receptacle or enclosure,
24 without ornamentation or a fixed interior lining, which is
25 designed for the encasement of human remains and which is made
26 of cardboard, pressed-wood, composition materials (with or
27 without an outside covering) or pouches of canvas or other
28 materials.

29 "Board." The State Board of Funeral Directors.

30 "Cash advance item." Any item of service or merchandise

1 described to a purchaser as a "cash advance," "accommodation,"
2 "cash disbursement" or similar term. A cash advance item is also
3 any item obtained from a third party and paid for by the funeral
4 provider on the purchaser's behalf. Cash advance items may
5 include, but are not limited to, the following items: cemetery
6 or crematory services, pallbearers, public transportation,
7 clergy honoraria, flowers, musicians or singers, nurses,
8 obituary notices, gratuities and death certificates.

9 "Casket." A rigid container which is designed for the
10 encasement of human remains and which is usually constructed of
11 wood, metal, or like material, and ornamented and lined with
12 fabric.

13 "Cremation." A heating process which incinerates human
14 remains.

15 "Crematory." Any person, partnership or corporation that
16 performs cremation.

17 "Direct cremation." A disposition of human remains by
18 cremation, without formal viewing, visitation or ceremony with
19 the body present.

20 "Funeral goods." Goods which are sold or offered for sale
21 directly to the public for use in connection with funeral
22 services.

23 "Funeral provider." Any person, partnership or corporation
24 which sells or offers to sell funeral goods and funeral services
25 to the public and is a licensed funeral director under the laws
26 of the Commonwealth of Pennsylvania.

27 "Funeral services." Any services which may be used to care
28 for and prepare deceased human bodies for burial, cremation or
29 other final disposition; and to arrange, supervise or conduct
30 the funeral ceremony or the final disposition of deceased human

1 bodies.

2 "Immediate burial." A disposition of human remains by
3 burial, without formal viewing, visitation or ceremony with the
4 body present, except for a graveside service.

5 "Outer burial container." Any container which is designed
6 for placement in the grave around the casket, including, but not
7 limited to, containers commonly known as burial vaults, grave
8 boxes and grave liners.

9 "Person." An individual, partnership, corporation,
10 association, government or governmental subdivision or agency or
11 other entity.

12 "Services of funeral director and staff." The services, not
13 included in prices of other categories in section 8, which may
14 be furnished by a funeral provider in arranging and supervising
15 a funeral, such as conducting the arrangements conference,
16 planning the funeral, obtaining necessary permits and placing
17 obituary notices.

18 "Unfinished wood box." An unornamented casket made of wood
19 which does not have a fixed interior lining.

20 Section 3. Violations.

21 It shall be a violation of this act to engage in unfair or
22 deceptive acts or practices set forth in this act or to fail to
23 comply with the preventive requirements specified in this act,
24 and failure to comply with such preventive requirements may be
25 deemed to be professional misconduct.

26 Section 4. Failure to disclose required price information.

27 In selling or offering to sell funeral goods or funeral
28 services to the public, it is an unfair or deceptive act or
29 practice for a funeral provider to fail to furnish price
30 information disclosing the cost to the purchaser for each of the

1 specific funeral goods and funeral services used in connection
2 with the disposition of deceased human bodies, including at
3 least the price of embalming, transportation of remains, use of
4 facilities, caskets, outer burial containers, immediate burials
5 or direct cremations, to persons inquiring about the purchase of
6 funerals. Any funeral provider who complies with the preventive
7 requirements in sections 5, 6, 7, 8 and 9 is not engaged in the
8 unfair or deceptive acts or practices in this section.

9 Section 5. Telephone price disclosures.

10 (a) General rule.--Funeral providers shall tell persons who
11 call the funeral provider's place of business and ask about the
12 terms, conditions or prices at which funeral goods or funeral
13 services are offered that price information is available over
14 the telephone.

15 (b) Information.--Funeral providers shall tell persons who
16 ask by telephone about the funeral provider's offerings or
17 prices any accurate information from the price lists described
18 in sections 6, 7 and 8 which reasonably answers the question and
19 which is readily available.

20 Section 6. Casket price list.

21 (a) Provision.--Funeral providers shall give a printed or
22 typewritten price list to people who inquire in person about the
23 offerings or prices of caskets or alternative containers. The
24 funeral provider shall offer the list upon beginning discussion
25 of, but in any event before showing caskets. The list shall
26 contain at least the retail prices of all caskets and
27 alternative containers offered which do not require special
28 ordering, enough information to identify each, and the effective
29 date for the price list.

30 (b) Alternatives.--In lieu of a written list, other formats,

1 such as notebooks, brochures or charts may be used if they
2 contain the same information as the printed or typewritten list,
3 displayed in a clear and conspicuous manner. However, the
4 funeral providers do not have to make a casket price list
5 available if the funeral providers place on the general price
6 list, specified in section 8, the information which is required
7 by this section.

8 (c) Additional information.--Funeral providers shall place
9 on the list, whether a printed or typewritten list, or on any
10 other format that is used, the name of the funeral provider's
11 place of business and a caption describing the list as a "casket
12 price list."

13 Section 7. Outer burial container price list.

14 (a) Provision.--Funeral providers shall give a printed or
15 typewritten price list to persons who inquire in person about
16 outer burial container offerings or prices. The funeral provider
17 shall offer the list upon beginning discussion of, but in any
18 event before showing, the containers. The list shall contain at
19 least the retail prices of all outer burial containers offered
20 which do not require special ordering, enough information to
21 identify each container and the effective date for the price
22 listed.

23 (b) Alternatives.--In lieu of a written list, the funeral
24 provider may use other formats, such as notebooks, brochures or
25 charts, if they contain the same information as the printed or
26 typewritten list, displayed in a clear and conspicuous manner.
27 However, the funeral providers do not have to make an outer
28 burial container price list available if the funeral providers
29 place on the general price list, specified in section 8, the
30 information which is required by this section.

1 (c) Additional information.--Funeral providers shall place
2 on the list, whether a printed or typewritten list, or on any
3 other format that is used, the name of the funeral provider's
4 place of business and a caption describing the list as an "outer
5 burial container price list."

6 Section 8. General price list.

7 (a) Provision.--Funeral providers shall give a printed or
8 typewritten price list for retention to persons who inquire in
9 person about funeral arrangements or the prices of funeral goods
10 or funeral services. When people inquire in person about funeral
11 arrangements or the prices of funeral goods or funeral services,
12 the funeral provider shall offer them the list upon beginning
13 discussion either of funeral arrangements or of the selection of
14 any funeral goods or funeral services. This list shall contain
15 all of the following information:

16 (1) The name, address and telephone number of the
17 funeral provider's place of business.

18 (2) A caption describing the list as a "general price
19 list."

20 (3) The effective date for the price list.

21 (4) In immediate conjunction with the price disclosures
22 required by subsection (b), the statement: "This list does
23 not include prices for certain items that you may ask us to
24 buy for you, such as cemetery or crematory services, flowers
25 and newspaper notices. The prices for those items will be
26 shown on your bill or the statement describing the funeral
27 goods and services you selected."

28 (b) Information.--Funeral providers shall include on the
29 price list, in any order, the retail prices (expressed either as
30 the flat fee, or as the price per hour, mile or other unit of

computation) and the other information specified for at least each of the following items, if offered for sale:

(1) Forwarding the remains to another funeral home, together with a list of the services provided for any quoted price.

(2) Receiving remains from another funeral home, together with a list of the services provided for any quoted price.

(3) The price range for the direct cremations offered by the funeral provider, together with a separate price for a direct cremation where the purchaser provides the container; separate prices for each direct cremation offered, including an unfinished wood box or alternative container; and a description of the services and container (where applicable) included in each price.

(4) The price range for the immediate burials offered by the funeral provider, together with a separate price for an immediate burial where the purchaser provides the casket; separate prices for each immediate burial offered, including a casket or alternative container; and a description of the services and container (where applicable) included in that price.

(5) Transfer of remains to funeral home.

(6) Embalming.

(7) Other preparation of the body.

(8) Use of facilities for viewing.

(9) Use of facilities for funeral ceremony.

(10) Other use of facilities, together with a list of facilities provided by any quoted price.

(11) Hearse.

1 (12) Limousine.

2 (13) Other automotive equipment, together with a
3 description of the automotive equipment provided for any
4 quoted price.

5 (14) Acknowledgment cards.

6 (c) Additional information.--Funeral providers shall include
7 on the price list in any order, the following information:

8 (1) Either of the following:

9 (i) The price range for the caskets offered by the
10 funeral provider, together with the statement: "A
11 complete price list will be provided at the funeral
12 home."

13 (ii) The prices of individual caskets disclosed in
14 the manner specified by section 6.

15 (2) Either of the following:

16 (i) The price range for the outer burial containers
17 offered by the funeral provider, together with the
18 statement: "A complete price list will be provided at the
19 funeral home."

20 (ii) The prices of individual outer burial
21 containers, disclosed in the manner specified by section
22 7.

23 (3) The price for the services of funeral director and
24 staff, together with a list of the principal services
25 provided for any quoted price and, if the charge cannot be
26 declined by the purchaser, the statement: "This fee for our
27 services will be added to the total cost of the funeral
28 arrangements you select."

29 Section 9. Statement of funeral goods and services selected.

30 (a) Provision.--Funeral providers shall give an itemized

1 written statement for retention to each person who arranges a
2 funeral or other disposition of human remains, at the conclusion
3 of the discussion of arrangements.

4 (b) Itemization.--The itemized cash advance prices shall be
5 given to the extent known or reasonably ascertainable. If the
6 cash advance prices are not known or reasonably ascertainable, a
7 good faith estimate shall be given, and a written statement of
8 the actual charges shall be provided before the final bill is
9 paid.

10 (c) Additional information.--Funeral providers may give
11 persons any other price information in any other format, in
12 addition to that required by sections 6, 7 and 8, so long as the
13 statement required by this section is given when required.

14 Section 10. Embalming provisions.

15 (a) General rule.--In seeking or offering to sell funeral
16 goods or funeral services to the public, it is a deceptive act
17 or practice for a funeral provider to:

18 (1) Represent that State or local law requires that a
19 deceased person be embalmed when such is not the case.

20 (2) Fail to disclose that embalming is not required by
21 law except in certain special cases.

22 (b) Prevention.--To prevent deceptive acts or practices in
23 subsection (a), as well as the unfair or deceptive acts or
24 practices set forth in sections 17 and 18(a), funeral providers
25 shall:

26 (1) Not represent that a deceased person is required to
27 be embalmed for direct cremation, immediate burial, a funeral
28 using a sealed casket, or if refrigeration is available and
29 the funeral is without viewing or visitation and with a
30 closed casket when State or local law does not require

1 embalming.

2 (2) Place the following disclosure on the general price
3 list required by section 8, in immediate conjunction with the
4 price shown for embalming: "Except in certain special cases,
5 embalming is not required by law. Embalming may be necessary,
6 however, if you select certain funeral arrangements, such as
7 a funeral with viewing. If you do not want embalming, you
8 usually have the right to choose an arrangement which does
9 not require you to pay for it, such as direct cremation or
10 immediate burial."

11 Section 11. Casket for cremation provisions.

12 (a) General rule.--In selling or offering to sell funeral
13 goods or funeral services to the public, it is a deceptive act
14 or practice for a funeral provider to:

15 (1) Represent that State or local law requires a casket
16 for direct cremations.

17 (2) Represent that a casket (other than an unfinished
18 wood box) is required for direct cremations.

19 (b) Prevention.--To prevent the deceptive acts or practices
20 in subsection (a), as well as the unfair or deceptive acts or
21 practices set forth in section 12(a), funeral providers shall
22 place the following disclosure in immediate conjunction with the
23 price range shown for direct cremations: "If you want to arrange
24 a direct cremation, you can use an unfinished wood box or an
25 alternative container. Alternative containers can be made of
26 materials like heavy cardboard or composition materials (with or
27 without an outside covering), or pouches of canvas." This
28 disclosure only has to be placed on the general price list if
29 the funeral provider arranges direct cremations.

30 Section 12. Required purchase of caskets for direct cremations.

1 (a) General rule.--In selling or offering to sell funeral
2 goods or funeral services to the public, it is an unfair or
3 deceptive act or practice for a funeral provider to require that
4 a casket other than an unfinished wood box be purchased for
5 direct cremation.

6 (b) Prevention.--To prevent the unfair or deceptive act or
7 practice in subsection (a), funeral providers must make an
8 unfinished wood box or alternative container available for
9 direct cremations, if they arrange direct cremations.

10 Section 13. Outer burial container provisions.

11 (a) General rule.--In selling or offering to sell funeral
12 goods and funeral services to the public, it is a deceptive act
13 or practice for a funeral provider to:

14 (1) Represent that State or local laws or regulations,
15 or particular cemeteries, require outer burial containers
16 when such is not the case.

17 (2) Fail to disclose to persons arranging funerals that
18 State law does not require the purchase of an outer burial
19 container.

20 (b) Prevention.--To prevent the deceptive acts or practices
21 in subsection (a), funeral providers must place the following
22 disclosure on the outer burial container price list required by
23 section 8, in immediate conjunction with those prices: "In most
24 areas of the country, no state or local law makes you buy a
25 container to surround the casket in the grave. However, many
26 cemeteries ask that you have such a container so that the grave
27 will not sink in. Either a burial vault or a grave liner will
28 satisfy these requirements."

29 Section 14. General provisions on legal and cemetery
30 requirements.

1 (a) General rule.--In selling or offering to sell funeral
2 goods or funeral services to the public, it is a deceptive act
3 or practice for funeral providers to represent that Federal,
4 State or local laws, or particular cemeteries or crematories,
5 require the purchase of any funeral goods or funeral services
6 when such is not the case.

7 (b) Prevention.--To prevent the deceptive acts or practices
8 in subsection (a), as well as the deceptive acts or practices
9 set forth in sections 10, 11 and 13, funeral providers shall
10 identify and briefly describe in writing on the statement of
11 funeral goods and services selected (required by section 9) any
12 legal, cemetery or crematory requirements which the funeral
13 provider represents to persons as compelling the purchase of
14 funeral goods or funeral services for the funeral which that
15 person is arranging.

16 Section 15. Provisions on preservative and protective value
17 claims.

18 In selling or offering to sell funeral goods or funeral
19 services to the public, it is a deceptive act or practice for a
20 funeral provider to represent that funeral goods have protective
21 features or will protect the body from gravesite substances when
22 such is not the case.

23 Section 16. Cash advance provisions.

24 In selling or offering to sell funeral goods and funeral
25 services to the public, any cash advance items shall reflect the
26 actual cost to the funeral provider.

27 Section 17. Other required purchases.

28 (a) General rule.--In selling or offering to sell funeral
29 goods or funeral services, it is an unfair or deceptive act or
30 practice for a funeral provider to condition the furnishing of

1 any funeral good or funeral service to a person arranging a
2 funeral upon the purchase of any other funeral good or funeral
3 service, except as required by law or as otherwise permitted by
4 this section.

5 (b) Prevention.--To prevent the unfair or deceptive act or
6 practice in subsection (a), funeral providers shall:

7 (1) Place the following disclosure in the general price
8 list, immediately above the price required by section (8)(b)
9 and (c): "The goods and services shown below are those we can
10 provide to our customers. You may choose only the items you
11 desire. If legal or other requirements mean you must buy any
12 items you did not specifically ask for, we will explain the
13 reason in writing on the statement we provide, describing the
14 funeral goods and services you selected." If the charge for
15 services of funeral director and staff may not be declined by
16 the purchaser, the statement shall include the sentence:
17 "However, any funeral arrangements you select will include a
18 charge for our services" between the second and third
19 sentences of the statement specified in this paragraph.

20 (2) Place the following disclosure on the statement of
21 funeral goods and services selected, required by section 9:
22 "Charges are only for those items that are used. If we are
23 required by law to use any items, we will explain the reasons
24 in writing below."

25 (c) Defense.--A funeral provider shall not violate this
26 section by failing to comply with a request for a combination of
27 goods or services which would be impossible, impractical or
28 excessively burdensome to provide.

29 Section 18. Services provided without prior approval.

30 (a) General rule.--In selling or offering to sell funeral

1 goods or funeral services to the public, it is an unfair or
2 deceptive act or practice for any provider to embalm a deceased
3 human body for a fee unless:

4 (1) State or local law or regulation requires embalming
5 in the particular circumstances regardless of any funeral
6 choice which the family might make; or

7 (2) prior approval for embalming (expressly so
8 described) has been obtained from a family member or other
9 authorized person; or

10 (3) the funeral provider is unable to contact a family
11 member or other authorized person after exercising due
12 diligence, has no reason to believe the family does not want
13 embalming performed, and obtains subsequent approval for
14 embalming already performed (expressly so described). In
15 seeking approval, the funeral provider shall disclose that a
16 fee will be charged if the family selects a funeral which
17 requires embalming, such as a funeral with a viewing, and
18 that no fee will be charged if the family selects a service
19 which does not require embalming, such as direct cremation or
20 immediate burial.

21 (b) Prevention.--To prevent the unfair or deceptive acts or
22 practices in subsection (a), funeral providers shall include on
23 the contract, final bill or other written evidence of the
24 agreement or obligation given to the customer, the statement:
25 "If you selected a funeral which requires embalming, such as a
26 funeral with viewing, you may have to pay for embalming. You do
27 not have to pay for embalming you did not approve if you
28 selected arrangements such as direct cremation or immediate
29 burial. If we charged for embalming, we will explain why below."

30 Section 19. Retention of documents.

1 To prevent the unfair or deceptive acts or practices
2 specified in this act, funeral providers shall retain and make
3 available for inspection by board officials true and accurate
4 copies of the price lists specified in sections 6, 7 and 8, as
5 applicable, for at least one year after the date of their last
6 distribution to customers, and a copy of each statement of
7 funeral goods and services selected, as required by section 9,
8 for at least six years from the date on which the statement was
9 signed.

10 Section 20. Comprehension of disclosures.

11 To prevent the unfair or deceptive acts or practices
12 specified in this act, funeral providers shall make all
13 disclosures required in a clear and conspicuous manner.

14 Section 21. Penalty.

15 Any violation of any provision of this act shall be
16 considered to be fraud and misrepresentation, and the funeral
17 provider shall be subject to license revocation or suspension
18 under section 11 of the act of January 14, 1952 (1951 P.L.1898,
19 No.522), known as the Funeral Director Law.

20 Section 22. Effective date.

21 This act shall take effect in 180 days.