

STATE OF OKLAHOMA

2nd Session of the 46th Legislature (1998)

HOUSE BILL NO. 2775

By: Morgan

AS INTRODUCED

An Act relating to cemeteries; amending 8 O.S. 1991, Sections 302, as last amended by Section 4, Chapter 82, O.S.L. 1995, 396.2 and 396.6 (8 O.S. Supp. 1997, Section 302), which relate to burial; clarifying language relating to the the Cemetery Merchandise Trust Act and the Funeral Service Licensing Act.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. AMENDATORY 8 O.S. 1991, Section 302, as last amended by Section 4, Chapter 82, O.S.L. 1995 (8 O.S. Supp. 1997, Section 302), is amended to read as follows:

Section 302. As used in the Cemetery Merchandise Trust Act:

1. "Cemetery merchandise" ~~means~~ shall mean markers, memorials, vases, memorial vases, monuments, equipment, crypts, niches or outer enclosures. Cemetery merchandise shall not include the sale of lands or interests therein as grave lots or grave spaces; burial or interment rights; and delivered or installed crypts, niches or outer enclosures;

2. "Purchase price" ~~means~~ shall mean the gross amount to be paid for cemetery merchandise under the provisions of a prepaid

cemetery merchandise contract. Purchase price shall not include finance charges, sales tax, charges for real property interests or charges for credit life insurance;

3. "Prepaid cemetery merchandise contract" ~~means~~ shall mean any agreement for the sale of cemetery merchandise by an organization which requires payment of the purchase price, in whole or in part, prior to delivery of the cemetery merchandise, which agreement is entered into from and after the effective date of this act;

4. "Minimum funding requirement" ~~means~~ shall mean that portion of the purchase price equal to one hundred ten percent (110%) of the wholesale cost, freight on board, to the organization of the cemetery merchandise covered in a prepaid cemetery merchandise contract. Wholesale costs shall be determined by the organization on the basis of such quotations and price lists as are available to the organization from the wholesale concerns;

5. "Organization" ~~means~~ shall mean any individual, firm, partnership, trust, corporation, association or entity. Organization shall not include state, county, municipal, township, rural community, religious, fraternal or nonprofit entities, free community burial grounds, county cemetery associations, Indian tribal cemeteries on tribal land and charitable or eleemosynary institutions operating cemeteries in this state;

6. "Outer enclosure" ~~means~~ shall mean a grave liner, grave box, or grave vault;

7. "Lawn crypt" ~~means~~ shall mean a subsurface permanent outer enclosure installed before need in multiple units for the purpose of interring human remains;

8. "Board" ~~means~~ shall mean the State Banking Board;

9. "Financial institution" ~~means~~ shall mean a federally insured bank, trust company, or savings and loan association which is authorized to do business in this state; and

10. "Commissioner" ~~means~~ shall mean the State Banking Commissioner.

SECTION 2. AMENDATORY 59 O.S. 1991, Section 396.2, is amended to read as follows:

Section 396.2 As used in the Funeral Services Licensing Act:

1. "Embalmer" means a person who disinfects or preserves dead human remains, entire or in part, by the use of chemical substances, fluids or gases in the remains, or by the introduction of same into the remains by vascular or hypodermic injection, or by direct application into organs or cavities;

2. "Funeral director" means a person who:

- a. is engaged in or conducts, or holds himself or herself out as being engaged in preparing for the burial or disposal and directing and supervising the burial or disposal of dead human remains,
- b. is engaged in or conducts or holds himself or herself out as being engaged in maintaining a funeral establishment for the preparation and the disposition, or for the care of dead human remains,
- c. uses, in connection with his or her name or funeral establishment, the words "funeral director" or "undertaker" or "mortician" or any other title implying that he or she is engaged as a funeral director, or
- d. sells funeral service merchandise to the public;

3. "Funeral establishment" means a place of business used in the care and preparation for burial or transportation of dead human remains, or any place where any person or persons shall hold forth and be engaged in the profession of undertaking or funeral directing;

4. "Apprentice" means a person who is engaged in learning the practice of embalming or of the practice of funeral directing, as

the case may be, under the instruction and personal supervision of a duly licensed embalmer or a duly licensed funeral director of and in the State of Oklahoma, pursuant to the provisions of the Funeral Services Licensing Act, and who is duly registered as such with said Board;

5. "Board" means the Oklahoma State Board of Embalmers and Funeral Directors;

6. "Directing a funeral" or "funeral directing" means directing funeral services from the time of the first call until interment or entombment services are completed, or until the remains are released for transport to a crematorium, or released to a public carrier;

7. "First call" means the beginning of the relationship and duty of the funeral director to take charge of dead human remains and have such remains prepared by embalming, cremation, or otherwise, for burial or disposition, provided all laws pertaining to public health in this state are complied with. First call does not include calls made by ambulance, when the person dispatching the ambulance does not know whether or not dead human remains are to be picked up;

8. "Personal supervision" means the physical presence of a licensed funeral director or embalmer at the specified time and place of the providing of acts of funeral service;

9. "Limited service establishment" means a fixed place of business consisting of an equipped preparation room, and other rooms as necessary, for the specified purpose of performing preparation and shipping services of dead human remains to funeral establishments inside and outside this state;

10. "Funeral service merchandise or funeral services" means those products and services normally provided by funeral establishments, including, but not limited to, the sale of burial supplies and equipment, but excluding the sale by a cemetery of lands or interests therein, services incidental thereto, markers,

memorials, monuments, equipment, crypts, niches or outer enclosures;
and

11. "Outer enclosure" means a grave liner, grave box, or grave vault.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 396.6, is amended to read as follows:

Section 396.6 A. No person shall operate a funeral establishment or limited service establishment, engage in the sale of any funeral service merchandise to the public, provide funeral services, carry on the business or profession of embalming or funeral directing or perform any of the functions, duties, or powers prescribed for funeral directors or embalmers pursuant to the provisions of the Funeral Services Licensing Act unless such person has obtained the license specified by rules ~~and regulations~~ promulgated pursuant to the Funeral Services Licensing Act and has otherwise complied with the provisions of the Funeral Services Licensing Act. Said license shall be nontransferable and nonnegotiable.

B. A license shall not be issued to any person for the operation of a funeral or embalming establishment which does not employ an embalmer licensed pursuant to the provisions of Section 396.3 of this title. An individual who supervises a funeral or embalming establishment shall be licensed pursuant to the provisions of Section 396.3 of this title.

C. The holder of any license issued pursuant to the Funeral Services Licensing Act, or any rules ~~and regulations~~ promulgated pursuant thereto, shall have such license recorded in the office of the county clerk in the county in which the licensee is engaged in such funeral business.

