

STATE OF OKLAHOMA

1st Session of the 47th Legislature (1999)

HOUSE BILL NO. 1083

By: Coleman

AS INTRODUCED

An Act relating to funeral merchandise; amending 36 O.S. 1991, Sections 6121, as amended by Section 1, Chapter 267, O.S.L. 1993 and 6127 (36 O.S. 1998, Section 6121), which relate to prepaid funeral benefits; providing for application of permit requirements; specifying that the display of retail prices be in conformity to Federal Trade Commission rules under certain circumstances; authorizing the Oklahoma Insurance Commissioner to promulgate certain rules; amending 59 O.S. 1991, Section 396.2, which relates to the Funeral Services Licensing Act; exempting certain funeral service merchandise sellers from the Act; and providing an effective date.

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

SECTION 1. AMENDATORY 36 O.S. 1991, Section 6121, as amended by Section 1, Chapter 267, O.S.L. 1993 (36 O.S. Supp. 1998, Section 6121), is amended to read as follows:

Section 6121. A. Any individual, firm, partnership, corporation, or association (hereinafter called "organization") which shall accept money or anything of value for prearranged, or prepaid funeral services, or funeral service merchandise as defined in the Funeral Services Licensing Act or for any contract providing future funeral services or funeral merchandise at a fixed price or at a cost plus a percentage, or at retail price less a percentage discount, or providing for any special consideration of any kind to be granted or made available to the purchaser or holder of such contract, in this state, under any sales contract, bond, certificate or other form of written document providing for prepaid, discounted

or otherwise specially priced funeral or burial benefits or services or funeral merchandise to be delivered at an undetermined future date dependent upon the death of a contracting party or other person designated by a contracting party (hereinafter called "prepaid funeral benefits") shall first obtain a permit from the Insurance Commissioner authorizing the transaction of this type of business before entering into any such contract. It shall be unlawful to sell prepaid funeral benefits unless the seller holds a valid, current permit at the time such contract is made. The seller shall not be entitled to enforce a contract made in violation of the act, but the purchaser or his heirs, or legal representative, shall be entitled to recover triple the amounts paid to the seller with interest thereon at the rate of six percent (6%) per annum under any contract made in violation hereof.

B. This section shall apply to organizations which sell funeral merchandise to the public, but do not sell funeral services and are not subject to regulation pursuant to the Funeral Services Licensing Act.

SECTION 2. AMENDATORY 36 O.S. 1991, Section 6127, is amended to read as follows:

Section 6127. Any organization or person offering for sale caskets or other articles of merchandise incidental to burial or funeral services shall prominently display thereon the retail price of ~~said~~ the caskets, or other articles of merchandise. The requirements for displaying retail prices for organizations not regulated pursuant to the Funeral Services Licensing Act shall be consistent with the requirements of Federal Trade Commission rules on the disclosure of prices and deceptive practices in the funeral industry. The Oklahoma Insurance Commissioner may promulgate rules necessary to implement this section.

SECTION 3. AMENDATORY 59 O.S. 1991, Section 396.2, is amended to read as follows:

Section 396.2 A. 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 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 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 name or funeral establishment, the words "funeral director" or "undertaker" or "mortician" or any other title implying that he 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~~
the 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.

B. A person, organization, or business that sells funeral service merchandise to the public without providing any other services related to the transportation or preparation of dead human remains or the supervision of funerals shall not be subject to the Funeral Services Licensing Act.

SECTION 4. This act shall become effective November 1, 1999.

47-1-5461 GH 6/12/15