

COMMITTEE AMENDMENT
HOUSE OF REPRESENTATIVES
State of Oklahoma

SPEAKER:

CHAIR:

I move to amend HB1826 _____
Of the printed Bill
Page _____ Section _____ Lines _____
Of the Engrossed Bill

By striking the Title, the Enacting Clause, the entire bill, and by inserting in lieu thereof the following language:

AMEND TITLE TO CONFORM TO AMENDMENTS

Adopted: _____

Amendment submitted by: Randy McDaniel _____

Reading Clerk

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 PROPOSED COMMITTEE
4 SUBSTITUTE
5 FOR
6 HOUSE BILL NO. 1826

By: Armes

7
8 PROPOSED COMMITTEE SUBSTITUTE

9 An Act relating to professions and occupations;
10 amending 59 O.S. 2011, Sections 396.2, 396.3,
11 396.12b, 396.12c and 396.30, which relate to the
12 Funeral Services Licensing Act; modifying definition;
13 providing for certain license; modifying transfer of
14 certain remains; modifying licensing procedures; and
15 providing an effective date.

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

17 SECTION 1. AMENDATORY 59 O.S. 2011, Section 396.2, is
18 amended to read as follows:

19 Section 396.2 As used in the Funeral Services Licensing Act:

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

2. "Funeral director" means a person who:

- a. is engaged in or conducts or represents themselves 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 represents themselves 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 the name of the person or funeral establishment, the words "funeral director" or "undertaker" or "mortician" or any other title implying that the person is engaged as a funeral director,
- d. sells funeral service merchandise to the public, or
- e. is responsible for the legal and ethical operation of a crematory;

3. "Funeral establishment" means a place of business used in the care and preparation for burial, commercial embalming, 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 the practice of funeral directing, as the case may be, under the instruction and personal supervision of a

1 duly licensed embalmer or a duly licensed funeral director of and in
2 the State of Oklahoma, pursuant to the provisions of the Funeral
3 Services Licensing Act, and who is duly registered as such with said
4 Board;

5 5. "Board" means the Oklahoma Funeral Board;

6 6. "Directing a funeral" or "funeral directing" means directing
7 funeral services from the time of the first call until final
8 disposition or release to a common carrier or release to next of kin
9 of the deceased or the designee of the next of kin;

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

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

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

3 10. "Funeral service merchandise or funeral services" means
4 those products and services normally provided by funeral
5 establishments and required to be listed on the General Price List
6 of the Federal Trade Commission, 15 U.S.C., Section 57a(a),
7 including, but not limited to, the sale of burial supplies and
8 equipment, but excluding the sale by a cemetery of lands or
9 interests therein, services incidental thereto, markers, memorials,
10 monuments, equipment, crypts, niches or outer enclosures;

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

13 12. "Funeral director in charge" means an individual licensed
14 as both a funeral director and embalmer designated by a funeral
15 service establishment, commercial embalming establishment, or
16 crematory who is responsible for the legal and ethical operation of
17 the establishment and is accountable to the Board;

18 13. "Authorizing agent" means a person legally entitled to
19 order the cremation or final disposition of particular human remains
20 pursuant to Section 1151 or 1158 of Title 21 of the Oklahoma
21 Statutes; and

22 14. "Cremation" means the technical process, using heat and
23 flame, that reduces human remains to bone fragments. The reduction
24 takes place through heat and evaporation. Cremation shall include,

1 but not be limited to, the processing and pulverization of the bone
2 fragments.

3 SECTION 2. AMENDATORY 59 O.S. 2011, Section 396.3, is
4 amended to read as follows:

5 Section 396.3 A. The Oklahoma Funeral Board shall determine
6 the qualifications necessary to enable any person to practice as a
7 funeral director or embalmer, and prescribe the requirements for a
8 funeral establishment or commercial embalming establishment. The
9 Board shall examine all applicants for licenses to practice as a
10 funeral director or embalmer. The Board shall issue the proper
11 licenses to applicants who successfully pass such examination and
12 qualify pursuant to any additional requirements the Board may
13 prescribe.

14 B. The minimum requirements for a license to practice funeral
15 directing or embalming, or both, are as follows:

16 An applicant for a license to practice embalming shall be at
17 least twenty (20) years of age, a legal resident of this state, a
18 citizen or permanent resident of the United States, and of good
19 moral character. In addition, an applicant shall have at least
20 sixty (60) semester hours of study earned, measured in quarter or
21 clock hours, from a regionally accredited college or university,
22 shall be a graduate of a program of mortuary science accredited by
23 the American Board of Funeral Service Education, and have served one
24 (1) year as a registered apprentice. The applicant may serve as a

1 registered apprentice prior to enrollment in an approved school of
2 mortuary science, or subsequent to graduation from said school.

3 Curriculum of study for an embalmer and/or funeral director is a
4 program of mortuary science which shall be that prescribed by the
5 American Board of Funeral Service Education.

6 C. The Board shall issue the appropriate license to any
7 qualified applicant whose application has been approved by the
8 Board, and who has paid the fees required by Section 396.4 of this
9 title, has passed the required examination with a general average of
10 not less than seventy-five percent (75%) and has demonstrated to the
11 Board proficiency as an embalmer or funeral director.

12 D. The Board shall maintain for public inspection a list of all
13 accredited schools of embalming and mortuary science.

14 E. Each funeral director in charge as defined in Section 396.2
15 of this title shall have a current dual funeral director and
16 embalmer license. A funeral director in charge of a funeral service
17 establishment or crematory that does not have a current dual funeral
18 director and embalmer license on the effective date of this act
19 shall be considered to be grandfathered and may serve as funeral
20 director in charge of any funeral service establishment or crematory
21 in accordance with rules prescribed by the Board, but shall not
22 serve as funeral director in charge of a commercial embalming
23 establishment which shall require a current dual funeral director
24 and embalmer license.

1 SECTION 3. AMENDATORY 59 O.S. 2011, Section 396.12b, is
2 amended to read as follows:

3 Section 396.12b A. Each funeral conducted within this state
4 shall be under the personal supervision of a duly licensed funeral
5 director who holds a valid license from the Oklahoma Funeral Board.
6 A registered apprentice may assist in conducting funerals. To
7 conduct a funeral shall require the personal supervision of a
8 licensed funeral director from the time of the first call until
9 interment is completed. A funeral director conducting a funeral in
10 this state shall ensure that the casket or other container holding
11 the deceased human remains shall not incur any damage other than
12 that which is normally incurred in the burial or final disposition
13 of human remains.

14 B. The embalming of dead human remains shall require the
15 presence and the direct supervision of a duly licensed embalmer,
16 however, a licensed registered apprentice embalmer may perform the
17 embalming of a dead human provided said registered apprentice
18 embalmer is under the direct supervision of a duly licensed
19 embalmer.

20 C. Nothing in this section regarding the conduct of funerals or
21 personal supervision of a licensed director, a registered apprentice
22 embalmer, or licensed embalmer, shall apply to persons related to
23 the deceased by blood or marriage. Further, nothing in this section
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1 shall apply or in any manner interfere with the duties of any state
2 officer or any employee of a local state institution.

3 D. Dead human remains shall be picked up on first call only
4 under the direction and ~~personal~~ supervision of a licensed funeral
5 director or embalmer. ~~Dead human remains may be transferred from~~
6 ~~one funeral home to another funeral home and from a funeral home to~~
7 ~~and from a morgue where an autopsy is to be performed without a~~
8 ~~licensed funeral director personally making the transfer. In~~
9 ~~circumstances in which there is no reasonable probability that~~
10 ~~unlicensed personnel will encounter family members or other persons~~
11 ~~with whom funeral arrangements are normally made by licensed funeral~~
12 ~~directors or embalmers, dead human remains may be picked up or~~
13 ~~transferred without the personal supervision of a funeral director~~
14 ~~or embalmer. Dead human remains may be picked up or transferred by~~
15 ~~a currently registered apprentice~~ without the personal supervision
16 of a funeral director or embalmer; 7i provided however, any
17 inadvertent contact with family members or other persons shall be
18 restricted to ~~the currently registered apprentice~~ identifying the
19 employer to the person, arranging an appointment with the employer
20 for any person who indicates a desire to make funeral arrangements
21 for the deceased and making any disclosure to the person that is
22 required by any federal or state regulation. A funeral director or
23 embalmer who directs the removal or transfer of dead human remains
24 without providing personal supervision shall be held strictly

1 accountable for compliance with the requirements of, ~~and exceptions~~
2 ~~to, first call as provided by~~ the Funeral Services Licensing Act.

3 SECTION 4. AMENDATORY 59 O.S. 2011, Section 396.12c, is
4 amended to read as follows:

5 Section 396.12c After notice and hearing pursuant to Article II
6 of the Administrative Procedures Act, the Oklahoma Funeral Board may
7 refuse to issue or renew, or may revoke or suspend, any license or
8 registration for any one or combination of the following:

9 1. Conviction of a felony shown by a certified copy of the
10 record of the court of conviction;

11 2. Conviction of a misdemeanor involving funeral services;

12 3. Gross malpractice or gross incompetency, which shall be
13 determined by the Board;

14 4. False or misleading advertising as a funeral director or
15 embalmer;

16 5. Violation of any of the provisions of the Funeral Services
17 Licensing Act or any violation of Sections 201 through 231 of Title
18 8 of the Oklahoma Statutes;

19 6. Fraud or misrepresentation in obtaining a license;

20 7. Using any casket or part thereof which has previously been
21 used as a receptacle for, or in connection with, the burial or other
22 disposition of dead human remains, unless the disclosure is made to
23 the purchaser;

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1 8. Violation of any rules of the Board in administering the
2 purposes of the Funeral Services Licensing Act;

3 9. Use of intoxicating liquor sufficient to produce drunkenness
4 in public, or habitual addiction to the use of habit-forming drugs
5 or either;

6 10. Solicitation of business, either personally or by an agent,
7 from a dying individual or the relatives of a dead or individual
8 with a terminal condition, as defined by the Oklahoma Rights of the
9 Terminally Ill or Persistently Unconscious Act, other than through
10 general advertising;

11 11. Refusing to properly release a dead human body to the
12 custody of the person entitled to custody;

13 12. Violating applicable state laws relating to the failure to
14 file a death certificate, cremation permit, or prearrangement or
15 prefinancing of a funeral;

16 13. Failing to obtain other necessary permits as required by
17 law in a timely manner;

18 14. Failing to comply with the Funeral Rules of the Federal
19 Trade Commission, 15 U.S.C., Section 57a(a);

20 15. Failing to comply with any applicable provisions of the
21 Funeral Services Licensing Act at the time of issuance or renewal;

22 16. Improper issuance or renewal of a license or registration;
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1 17. Violating the provisions of subsection B of Section 396.12
2 of this title regarding advertisement of services at locations not
3 licensed by the Board;

4 18. The abuse of a corpse whereby a person knowingly and
5 willfully signs a certificate as having embalmed, cremated, or
6 prepared a dead human body for disposition when, in fact, the
7 services were not performed as indicated;

8 19. Simultaneous cremating of more than one human dead body
9 without express written approval of the authorizing agent; ~~or~~

10 20. Cremating human remains without the permit required by
11 Section 1-329.1 of Title 63 of the Oklahoma Statutes;

12 21. Intentional interference with an investigation by the Board
13 or failure to allow access to funeral records during an
14 investigation or to produce records for an investigation; or

15 22. Failure to properly discharge financial obligations as
16 established by rule of the Board.

17 SECTION 5. AMENDATORY 59 O.S. 2011, Section 396.30, is
18 amended to read as follows:

19 Section 396.30 A. No person shall dispose of the body of any
20 deceased person by cremation or other similar means, within this
21 state, without first having obtained from the Oklahoma Funeral Board
22 an annual license to operate a crematory.

23 B. Application for an annual license shall be made to the
24 executive director of the Board upon forms prescribed and furnished

1 by the executive director, shall give the location of the crematory,
2 and any other information as the executive director shall require,
3 and shall be accompanied by the crematory license fee pursuant to
4 Section 396.4 of ~~Title 59 of the Oklahoma Statutes~~ this title. A
5 crematory shall not be licensed separately from a funeral or
6 commercial embalming establishment but shall be licensed in
7 conjunction with and operated by a funeral service or commercial
8 embalming establishment. Annual licenses shall expire on ~~the 31st~~
9 ~~day of~~ December 31 each year, shall specify the name or names of the
10 owners of the crematory and the location thereof, the funeral
11 director in charge, and shall not be transferable either as to the
12 ownership of the crematory, the funeral director in charge or as to
13 the location thereof. The first annual license issued for any
14 crematory at any location shall not be issued by the executive
15 director until the executive director has been satisfied:

16 1. That the crematory is, or will be, so constructed as to be
17 capable of reducing the body of a deceased person to a residue which
18 shall not weigh more than five percent (5%) of the weight of the
19 body immediately after death; and

20 2. That the crematory has at least one operable crematory for
21 cremation.

22 The requirement of paragraph 1 of this subsection may, but need not,
23 be waived by the executive director for any subsequent annual
24 license issued for the same crematory.

1 C. All funeral establishments performing cremations shall have
2 a licensed funeral director in charge.

3 D. Each funeral establishment performing cremation services
4 shall keep records as required by the Board to assure compliance
5 with all laws relating to the disposition of dead human remains and
6 shall file annually with the Board a report in the form prescribed
7 by the Board describing the operations of the licensee, including
8 the number of cremations performed, the disposition thereof, and any
9 other information that the Board may require by rule.

10 E. A funeral establishment performing cremation services shall
11 be subject to all local, state, and federal health and environmental
12 requirements and shall obtain all necessary licenses and permits
13 from the Oklahoma Funeral Board, and the appropriate federal and
14 state health and environmental authorities.

15 F. Crematories licensed by the Board on the effective date of
16 this act shall be exempt from the provisions of subsections C, D and
17 E of this section ~~until July 1, 2005.~~

18 G. All crematories shall be subject to inspection, at all
19 reasonable times, by the Board or its duly authorized agents or
20 employees.

21 SECTION 6. This act shall become effective November 1, 2013.

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23 54-1-7206 LRB 02/20/13

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