

House Research Act Summary

CHAPTER: 438

SESSION: 2000 Regular Session

TOPIC: Funeral goods and services

Date: August 2, 2000

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Overview

This bill regulates the solicitation and sale of funeral goods and services, particularly when a person arranges for goods and services prior to the person's death via preneed funeral arrangements. It prohibits solicitations at certain times and places, requires funeral establishments and providers to disclose by whom they are owned, requires certain procedures to be followed by a provider upon the death of a person who has arranged for funeral goods and services in advance, and specifies the contents of preneed agreements. Additionally, it modifies the authority of the commissioner of health to issue cease and desist orders to prohibit a funeral provider from selling preneed goods or services. The bill also prohibits certain other practices by funeral providers.

Section

- 1 **Burial site goods.** Adds subd. 3a to § 149A.02. Defines this term to mean all goods provided directly to the public that are associated with the disposition of a dead human body.
- 2 **Burial site services.** Adds subd. 3b to § 149A.02. Defines this term to mean all services provided directly to the public that are associated with the disposition of a dead human body.
- 3 **Funeral provider.** Amends § 149A.02, subd. 22. Amends the definition of funeral provider, to specify that it includes providers of burial site goods and services, but does not include monument builders who sell monuments at retail to the public but do not sell any other funeral good or funeral service.
- 4 **Preneed consumer.** Adds subd. 33a to § 149A.02. Defines this term to mean an individual who arranges for funeral goods or services prior to the individual's own death or the death of another individual and who pays for the arrangements through prepayment to a funeral provider or purchase of an insurance policy.
- 5 **Authorization.** Amends § 149A.08, subd. 1. Permits the commissioner of health to issue a cease and desist order to prohibit a provider from selling preneed goods or services if any

provision of the mortuary science chapter is violated.

- 6 **Sale of preneed goods or services; contents of order, hearing, when effective.** Adds subd. 2a to § 149A.08. Establishes procedures regarding the issuance of a cease and desist order under section 5. Requires a cease and desist order to state that a hearing on the order, if requested, occurs before the order goes into effect and that a timely request for a hearing automatically stays the order. Requires a request for hearing to be in writing, makes a timely request for hearing automatically stay the order, and makes the order the final order of the commissioner if the funeral provider fails to make a timely request for hearing. Establishes requirements for conducting the hearing.
- 7 **Request for hearing; hearing; and final order.** Amends § 149A.08, subd. 3. Provides that existing statutory language establishing procedures for requests for hearings, hearings, and final orders for cease and desist orders does not apply to cease and desist orders issued under the authority granted in section 5.
- 8 **Request for stay.** Amends § 149A.08, subd. 4. Provides that existing statutory language establishing procedures by which a person may request a stay of a cease and desist order does not apply to cease and desist orders issued under the authority granted in section 5.
- 9 **Solicitations prohibited in certain situations.** Adds subd. 5a to § 149A.70. Prohibits certain types of solicitations by funeral providers. Such solicitations are not prohibited when the communication is between an individual and a funeral provider who is a relative of the individual. The prohibited practices are:
- visiting individuals at a hospital, grave site, nursing home, or similar location, or at a visitation, wake, or reviewal, to solicit business without a specific request for solicitation from the individual;
 - solicitation to an individual whose impending death is readily apparent, except at the individual's specific request; and
 - telephone solicitations of individuals who have the right to make funeral arrangements for another individual within ten days after the individual's death, except at the individual's specific request.
- 10 **Disclosure of ownership.** Adds subd. 8 to § 149A.70. Requires funeral establishments and funeral providers to clearly state by whom they are owned on all business literature, correspondence, and contracts.
- 11 **Disclosure of change of ownership.** If there is a change in ownership of a funeral establishment, preneed consumers must be notified within 15 days, and must be informed that they have the right to transfer funds they have deposited with the provider to another provider or, if the arrangement is a revocable preneed trust, of their right to a refund of principal and interest. Defines the terms "change in ownership" and "controlling interest" for this subdivision.
- 12 **Unfair or deceptive acts or practices.** Amends existing language concerning unfair or deceptive practices in connection with the sale of funeral goods and services so that those requirements also apply to the sale of burial site goods and services.
- 13 **Preventive requirements.** Amends § 149A.71, subd. 2. Requires funeral providers to have and provide to consumers a separate price list of the cemetery specific goods and services offered by the provider. Also specifies that the price list requirement does not apply to prices for markers and headstones, and instead requires providers to give the price range for the markers and headstones the provider offers or the prices of individual markers and headstones. Further requires that when a provider receives notice that a preneed consumer has died, the provider must provide copies of the preneed arrangement documents to the person who controls the disposition of the remains, and that these documents must be given during the first contact

between the person and the provider if the first contact occurs in person at the funeral provider's place of business. If the contact occurs at another location, requires the documents to be provided within 24 hours.

- 14 **Prices displayed.** Expands existing price display language to apply to burial site goods.
- 15 **Casket, alternate container, and cremation container sales; records; required disclosures.** Amends § 149A.71, subd. 4. Narrows an exemption.
- 16 **Rental caskets; deceptive acts or practices.** Expands existing language to include burial site goods and services. (Sections 16 through 24 take existing provisions in the mortuary science chapter that are currently applied to funeral goods and services and expand them to include burial site goods and services.)
- 17 **Rental caskets; preventative measures.** Expands existing language to include funeral goods in addition to funeral services.
- 18 **Outer burial container provisions; deceptive acts or practices.** Expands existing language to include burial site goods and services.
- 19 **General provisions on legal and cemetery requirements; deceptive acts or practices.** Expands existing language to include burial site goods and services.
- 20 **General provisions on legal and cemetery requirements; preventive requirements.** Expands existing language to include burial site goods and services.
- 21 **Provisions on preservative and protective value claims; deceptive acts or practices.** Expands existing language to include burial site goods and services.
- 22 **Cash advance provisions; deceptive acts or practices.** Expands existing language to include burial site goods and services.
- 23 **Cash advance provisions; preventive requirements.** Expands existing language to include burial site goods and services.
- 24 **Casket for cremation provisions; deceptive acts or practices.** Expands existing language to include burial site goods and services.
- 25 **Other required purchases of funeral goods or funeral services; deceptive acts or practices.** Amends § 149A.73, subd. 3. Provides that it is a deceptive act or practice for a funeral provider to charge an increased price for the handling, placing, or setting of a funeral good because the good was not purchased from that funeral provider.
- 26 **Other required purchases of funeral goods, funeral services, burial site goods, or burial site services; preventive requirements.** Expands disclosure requirements for funeral goods to apply to burial site goods and services.
- 27 **Rental of funeral goods.** Adds subd. 5 to § 149A.73. Specifies that it is a deceptive act or practice for a funeral provider to require, as a condition of providing any funeral good or burial site good, that the good be purchased when rental of the good is practicable.
- 28 **Funeral industry practices; prohibition on preinterment of outer burial containers.** Adds § 149A.745. Prohibits a funeral provider from interring a lined and sealed outer burial container until the death of the beneficiary.
- 29 **Funeral industry practices; retention of documents.** Expands record retention requirements to apply to burial site goods and services.
- 30 **Purpose and intent.** Amends statement of legislative purpose to encompass regulation of burial site goods and services.
- 31 **Scope and requirements.** Amends statement of scope to refer to burial site goods.
- 32 **Nature of trust.** Amends language currently applied to the purchase of preneed funeral goods

and services to apply also to the purchase of preneed burial site goods and services.

- 33 **Requirements for preneed funeral agreements.** Adds subd. 3a to § 149A.97. Establishes requirements for preneed funeral agreements, including that the agreement:
- is written in clear language and printed in easy-to-read type;
 - contains a complete description of the goods and services being purchased;
 - clearly discloses whether prices are guaranteed;
 - discloses that funding options consist of prepayment or the purchase of insurance;
 - discloses whether funds received will be placed in a trust, and information about the trust if applicable;
 - contains contact information for the health department and attorney general's office;
 - discloses clearly the right to cancel an agreement;
 - contains a specified statement that outlines the treatment of funds placed in trust;
 - for revocable trust agreements, contains a specified statement regarding the treatment of revocable trust funds;
 - for irrevocable trust agreements, contains a specified statement regarding the treatment of irrevocable trust funds;
 - provides that if the particular goods or services agreed to are not available at the time of delivery, substituted goods and services of similar style and at least equal quality must be provided, and that a representative of the beneficiary has the right to choose the goods or services to be substituted; and
 - contains an itemization of the sale of grave lots, spaces, lawn crypts, niches, or mausoleum crypts separate from other funeral goods and services selected.
- 34 **Finance charges on preneed arrangements prohibited.** Adds subd. 4a to § 149A.97. Prohibits funeral providers from assessing finance charges on preneed arrangements.
- 35 **Disbursement of trust funds.** Amends § 149A.97, subd. 6. Provides a cross-reference to the provisions of section 20, regarding cancellation of agreements for preneed arrangements.
- 36 **Cancellation of agreement for preneed arrangements.** Adds subd. 6a to § 149A.97. Specifies a purchaser's right to cancel preneed arrangements. The general provisions give the purchaser the right to cancel at any time before midnight on the third day after the agreement date and receive a full refund. If the agreement is canceled after that time, any funds held in a revocable trust must be refunded to the purchaser. Provides that a purchaser may cancel the agreement by providing written notice to the provider at the address in the agreement. Notice is effective upon placement in the mailbox, if mailed. No specific form of notice is required.
- 37 **Required records.** Expands recordkeeping requirement.
- 38 **Recommendations.** Requires the commissioner of health to make recommendations to the legislature by January 15, 2001 on whether there is need for additional funding to regulate funeral providers, and if so, proposals for alternative funding sources other than the general fund.
- 39 **Effective date.** Makes section 10 effective January 1, 2001.