



Adopted in House Comm. on Mar 03, 2004

09300HB5025ham001

LRB093 16110 RXD 47571 a

1 AMENDMENT TO HOUSE BILL 5025

2 AMENDMENT NO. _____. Amend House Bill 5025 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Funeral Practices Act.

6 Section 5. Definitions. In this Act:

7 "Alternative container" means an unfinished wood box or
8 other non-metal receptacle or enclosure, without ornamentation
9 or a fixed interior lining, which is designed for the
10 encasement of human remains and which is made of fiberboard,
11 pressed-wood, composition materials, with or without an
12 outside covering, or like materials.

13 "Cash advance item" means any item of service or
14 merchandise described to a purchaser as a "cash advance",
15 "accommodation", "cash disbursement", or similar term. A cash
16 advance item is also any item obtained from a third party and
17 paid for by the funeral provider on the purchaser's behalf.
18 Cash advance items may include, but are not limited to,
19 cemetery or crematory services, pallbearers, public
20 transportation, clergy honoraria, flowers, musicians or
21 singers, nurses, obituary notices, gratuities, and death
22 certificates. Cash advance items are not subject to the
23 provisions of the Unemployment Insurance Act.

24 "Casket" means a rigid container which is designed for the

1 encasement of human remains and which is usually constructed of
2 wood, metal, fiberglass, plastic, or like material, and
3 ornamented and lined with fabric.

4 "Casket retailer" means a person who sells or offers to
5 sell caskets.

6 "Commission" refers to the Federal Trade Commission.

7 "Cremation" means a heating process which incinerates
8 human remains.

9 "Crematory" means any person, partnership, or corporation
10 that performs cremation.

11 "Direct cremation" means a disposition of human remains by
12 cremation, without formal viewing, visitation, or ceremony
13 with the body present.

14 "Funeral ceremony" means a service commemorating the
15 deceased with the body present.

16 "Funeral goods" means the goods which are sold or offered
17 for sale directly to the public for use in connection with
18 funeral services by a funeral home, cemetery, crematory, casket
19 retailer, memorial retailer or their employees and agents.

20 "Funeral provider" means any person, partnership,
21 corporation, or other entity that sells or offers to sell
22 funeral goods or funeral services to the public.

23 "Funeral services" means (a) any services which may be used
24 to: (1) care for and prepare deceased human bodies for burial,
25 cremation, or other final disposition; and (2) arrange,
26 supervise, or conduct the funeral ceremony or the final
27 disposition of deceased human bodies; and (b) any services
28 provided by a funeral home, cemetery, crematory, casket
29 retailer, memorial retailer, or their employees and agents.

30 "Immediate burial" means a disposition of human remains by
31 burial, without formal viewing, visitation, or ceremony with
32 the body present, except for a graveside service.

33 "Memorial retailer" means a person who sells or offers to
34 sell to the public any memorial intended to mark the location

1 of the interment of human remains.

2 "Memorial service" means a ceremony commemorating the
3 deceased without the body present.

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

8 "Person" means any individual, partnership, corporation,
9 association, government or governmental subdivision or agency,
10 or other entity.

11 "Services of funeral director and staff" means the basic
12 services, not to be included in prices of other categories in
13 paragraph (4) of subsection (b) of Section 10, that are
14 furnished by a funeral provider in arranging any funeral, such
15 as conducting the arrangements conference, planning the
16 funeral, obtaining necessary permits, and placing obituary
17 notices.

18 Section 10. Price disclosures.

19 (a) Unfair or deceptive acts or practices. In selling or
20 offering to sell funeral goods or funeral services to the
21 public, it is an unfair or deceptive act or practice for a
22 funeral provider to fail to furnish accurate price information
23 disclosing the cost to the purchaser for each of the specific
24 funeral goods and funeral services used in connection with the
25 disposition of deceased human bodies, including but not limited
26 to, the price of embalming, transportation of remains, use of
27 facilities, caskets, outer burial containers, immediate
28 burials, or direct cremations. Any funeral provider who
29 complies with the preventive requirements of subsection (b) of
30 this Section is not engaged in unfair or deceptive acts or
31 practices.

32 (b) Preventive requirements. To prevent unfair or
33 deceptive acts or practices as defined in subsection (a) of

1 this Section, as well as the unfair or deceptive acts or
2 practices defined in subdivision (b)(1) of Section 20, a
3 funeral provider must:

4 (1) Tell persons who ask by telephone about the funeral
5 provider's offerings or prices any accurate information
6 from the price lists described in paragraphs (2) through
7 (4) of this subsection (b) and any other readily available
8 information that reasonably answers the question.

9 (2) Give a printed or typewritten price list to people
10 who inquire in person about the offerings or prices of
11 caskets or alternative containers. The funeral provider
12 must offer the list upon beginning discussion of the
13 caskets. The list must contain at least the retail prices
14 of all caskets and alternative containers offered which do
15 not require special ordering, enough information to
16 identify each, and the effective date for the price list.
17 The list must contain the name of the funeral provider's
18 place of business and a caption describing the list as a
19 "casket price list". Instead of a written list, other
20 formats, such as notebooks, brochures, or charts may be
21 used if they contain the same information as would the
22 printed or typewritten list and display it in a clear and
23 conspicuous manner. A funeral provider does not have to
24 make a casket price list available if the funeral provider
25 places on the general price list the information required
26 under paragraph (4) of this subsection (b).

27 (3) Give a printed or typewritten price list to persons
28 who inquire in person about outer burial container
29 offerings or prices. The funeral provider must offer the
30 list upon beginning discussion of the containers. The list
31 must contain the retail prices of all outer burial
32 containers offered which do not require special ordering,
33 enough information to identify each container, and the
34 effective date for the prices listed. The list must contain

1 the name of the funeral provider's place of business and a
2 caption describing the list as an "outer burial container
3 price list". Instead of a written list, the funeral
4 provider may use other formats, such as notebooks,
5 brochures, or charts, if they contain the same information
6 as the printed or typewritten list and display it in a
7 clear and conspicuous manner. A funeral provider does not
8 have to make an outer burial container price list available
9 if the funeral provider places on the general price list
10 the information required under paragraph (4) of this
11 subsection (b).

12 (4) Give a printed or typewritten price list for
13 retention to persons who inquire in person about the
14 funeral goods, funeral services, or prices of funeral goods
15 or services offered by the funeral provider. The funeral
16 provider must give the list upon beginning discussion of
17 any of the following: (i) the prices of funeral goods or
18 funeral services, (ii) the overall type of funeral service
19 or disposition, or (iii) the specific funeral goods or
20 funeral services offered by the funeral provider.

21 (A) The requirement under this subsection (b)
22 applies whether the discussion takes place in a funeral
23 home or elsewhere. However, when the deceased is
24 removed for transportation to the funeral home, an
25 in-person request at that time for authorization to
26 embalm, required by paragraph (2) of subsection (a) of
27 Section 25, does not by itself trigger the requirement
28 to offer the general price list if the provider, in
29 seeking prior embalming approval, discloses that
30 embalming is not required by law except in certain
31 special cases, if any. The requirement under this
32 subsection, to give consumers a general price list,
33 applies to any other discussion during that time about
34 prices or the selection of funeral goods or services.

1 (B) The list required under this paragraph (4) must
2 contain at least the following information:

3 (i) The name, address, and telephone number of
4 the funeral provider's place of business;

5 (ii) A caption describing the list as a
6 "general price list"; and

7 (iii) The effective date for the price list.

8 (5) Include on the price list, in any order, the retail
9 prices, expressed either as the flat fee, or as the price
10 per hour, mile, or other unit of computation, and the
11 following information if offered for sale:

12 (A) Forwarding of remains to another funeral home,
13 together with a list of the services provided for any
14 quoted price;

15 (B) Receiving remains from another funeral home,
16 together with a list of the services provided for any
17 quoted price;

18 (C) The price range for the direct cremations
19 offered by the funeral provider, together with:

20 (i) a separate price for a direct cremation if
21 the purchaser provides the container;

22 (ii) separate prices for each direct cremation
23 offered including an alternative container; and

24 (iii) a description of the services and
25 container included in each price;

26 (D) The price range for the immediate burials
27 offered by the funeral provider, together with:

28 (i) a separate price for an immediate burial if
29 the purchaser provides the casket;

30 (ii) separate prices for each immediate burial
31 offered including a casket or alternative
32 container; and

33 (iii) a description of the services and
34 container included in that price;

- 1 (E) Transfer of remains to funeral home;
- 2 (F) Embalming;
- 3 (G) Other preparation of the body;
- 4 (H) Use of facilities and staff for viewing;
- 5 (I) Use of facilities and staff for funeral
6 ceremony;
- 7 (J) Use of facilities and staff for memorial
8 service;
- 9 (K) Use of equipment and staff for graveside
10 service;
- 11 (L) Hearse; and
- 12 (M) Limousine.

13 (6) Include on the price list, in any order, the
14 following information:

15 (A) The price range for the caskets offered by the
16 funeral provider, together with the statement: "A
17 complete price list will be provided at the funeral
18 provider's location."; or the prices of individual
19 caskets, disclosed as provided under paragraph (2) of
20 this subsection (b).

21 (B) The price range for the outer burial containers
22 offered by the funeral provider, together with the
23 statement: "A complete price list will be provided at
24 the funeral provider's location."; or the prices of
25 individual outer burial containers, disclosed as
26 provided under paragraph (3) of this subsection (b).

27 (C) The price for the basic services of the funeral
28 director and staff, together with a list of the
29 principal basic services provided for any quoted price
30 and, if the charge cannot be declined by the purchaser,
31 the statement: "This fee for our basic services will be
32 added to the total cost of the funeral arrangements you
33 select. (This fee is already included in our charges
34 for direct cremations, immediate burials, and

1 forwarding or receiving remains)". If the charge
2 cannot be declined by the purchaser, the quoted price
3 shall include (i) all charges for the recovery of
4 unallocated funeral provider overhead, and a funeral
5 provider may include in the required disclosure the
6 phrase "and overhead" after the word "services", or
7 (ii) the following statement: "Please note that a fee
8 of (specify dollar amount) for the use of our basic
9 services is included in the price of our caskets. This
10 same fee shall be added to the total cost of your
11 funeral arrangements if you provide the casket. Our
12 services include (specify)." The fee shall include all
13 charges for the recovery of unallocated funeral
14 provider overhead, and a funeral provider may include
15 in the required disclosure the phrase "and overhead"
16 after the word "services". The statement must be placed
17 on the general price list together with the casket
18 price range, required under paragraph (2) of this
19 subsection (b), or together with the prices of
20 individual caskets, required under paragraph (2) of
21 this subsection (b).

22 (7) Give an itemized written statement for retention to
23 each person who arranges a funeral or other disposition of
24 human remains, at the conclusion of the discussion of
25 arrangements. The information may be included on any
26 contract, statement, or other document which the funeral
27 provider would otherwise provide at the conclusion of
28 discussion of arrangements. The statement must list the
29 following information:

30 (A) The funeral goods or funeral services selected
31 by that person and the prices to be paid for each good
32 or service;

33 (B) Specifically itemized cash advance items.
34 These prices must be given to the extent then known or

1 reasonably ascertainable. If the prices are not known
2 or reasonably ascertainable, a good faith estimate
3 shall be given and a written statement of the actual
4 charges shall be provided before the final bill is
5 paid; and

6 (C) The total cost of the goods or services
7 selected.

8 (8) Give any other price information, in any other
9 format, in addition to that required under subdivisions
10 (b) (1) through (b) (7) of this Section.

11 Section 15. Misrepresentations.

12 (a) Embalming provisions.

13 (1) Deceptive acts or practices. In selling or offering
14 to sell funeral goods or funeral services to the public, it
15 is a deceptive act or practice for a funeral provider to:

16 (A) Represent that State or local law requires that
17 a deceased person be embalmed when such is not the
18 case; or

19 (B) Fail to disclose that embalming is not required
20 by law except in certain special cases, if any.

21 (2) Preventive requirements. To prevent deceptive acts
22 or practices defined in this subsection (a), as well as the
23 unfair or deceptive acts or practices defined in Sections
24 20 and 25 of this Act, a funeral provider must:

25 (A) Not represent that a deceased person is
26 required to be embalmed for:

27 (i) direct cremation;

28 (ii) immediate burial; or

29 (iii) a closed casket funeral without viewing
30 or visitation when refrigeration is available and
31 when State or local law does not require embalming;
32 and

33 (B) Place the following statement of disclosure on

1 the general price list, required under paragraph (4) of
2 subsection (b) of Section 10, in immediate conjunction
3 with the price shown for embalming: "Except in certain
4 special cases, embalming is not required by law.
5 Embalming may be necessary, however, if you select
6 certain funeral arrangements, such as a funeral with
7 viewing. If you do not want embalming, you usually have
8 the right to choose an arrangement that does not
9 require you to pay for it, such as direct cremation or
10 immediate burial." The phrase "except in certain
11 special cases" shall not be included in this disclosure
12 if State or local law in the areas where the provider
13 does business does not require embalming under any
14 circumstances.

15 (b) Casket for cremation provisions.

16 (1) Deceptive acts or practices. In selling or offering
17 to sell funeral goods or funeral services to the public, it
18 is a deceptive act or practice for a funeral provider to:

19 (A) Represent that State or local law requires a
20 casket for direct cremations; or

21 (B) Represent that a casket is required for direct
22 cremations.

23 (2) Preventive requirements. To prevent deceptive acts
24 or practices, as well as the unfair or deceptive acts or
25 practices defined in paragraph (1) of subsection (a) of
26 Section 20, a funeral provider must place the following
27 disclosure in immediate conjunction with the price range
28 shown for direct cremations: "If you want to arrange a
29 direct cremation, you may use an alternative container.
30 Alternative containers encase the body and can be made of
31 materials such as fiberboard or composition materials
32 (with or without an outside covering). The containers we
33 provide are (specify containers)." This disclosure is
34 required to be placed on the general price list only if the

1 funeral provider arranges direct cremations.

2 (c) Outer burial container provisions.

3 (1) Deceptive acts or practices. In selling or offering
4 to sell funeral goods or funeral services to the public, it
5 is a deceptive act or practice for a funeral provider to:

6 (A) Represent that State or local laws or
7 regulations, or particular cemeteries, require outer
8 burial containers when such is not the case.

9 (B) Fail to disclose to persons arranging funerals
10 that State law does not require the purchase of an
11 outer burial container.

12 (2) Preventive requirements. To prevent these
13 deceptive acts or practices, a funeral provider must place
14 the following statement of disclosure on the outer burial
15 container price list, as required under paragraph (3) of
16 subsection (b) of Section 10, or if the prices of outer
17 burial containers are listed on the general price list, as
18 required under paragraph (4) of subsection (b) of Section
19 10, in immediate conjunction with those prices: "In most
20 areas of the country, state or local law does not require
21 that you buy a container to surround the casket in the
22 grave. However, many cemeteries require that you have such
23 a container so that the grave will not sink in. Either a
24 grave or a burial vault will satisfy these requirements."
25 The phrase "in most areas of the country" shall not be
26 included in this disclosure if State or local law in the
27 areas where the provider does business does not require a
28 container to surround the casket in the grave.

29 (d) General provisions on legal and cemetery requirements.

30 (1) Deceptive acts or practices. In selling or offering
31 to sell funeral goods or funeral services to the public, it
32 is a deceptive act or practice for a funeral provider to
33 represent that federal, State, or local laws, or particular
34 cemeteries or crematories, require the purchase of any

1 funeral goods or funeral services when such is not the
2 case.

3 (2) Preventive requirements. To prevent these
4 deceptive acts or practices, as well as the deceptive acts
5 or practices identified in subdivisions (a)(1), (b)(1),
6 and (c)(1) of this Section, a funeral provider must
7 identify and briefly describe in writing on the statement
8 of funeral goods or services selected any legal, cemetery,
9 or crematory requirement that the funeral provider
10 represents to any person as compelling the purchase of
11 funeral goods or funeral services for a funeral that the
12 person is arranging.

13 (e) Provisions on preservative and protective value
14 claims. In selling or offering to sell funeral goods or funeral
15 services to the public, it is a deceptive act or practice for a
16 funeral provider to:

17 (1) Represent that funeral goods or funeral services
18 will delay the natural decomposition of human remains for a
19 long-term or indefinite time; or

20 (2) Represent that funeral goods have protective
21 features or will protect the body from gravesite
22 substances, when such is not the case.

23 (f) Cash advance provisions.

24 (1) Deceptive acts or practices. In selling or offering
25 to sell funeral goods or funeral services to the public, it
26 is a deceptive act or practice for a funeral provider to:

27 (A) Represent that the price charged for a cash
28 advance items is the same as the cost to the funeral
29 provider for the item when such is not the case; or

30 (B) Fail to disclose to persons arranging funerals
31 that the price being charged for a cash advance item is
32 not the same as the cost to the funeral provider for
33 the item when such is not the case.

34 (2) Preventive requirements. To prevent these

1 deceptive acts or practices, a funeral provider must place
2 the following sentence in the itemized statement of funeral
3 goods or services selected, in immediate conjunction with
4 the list of itemized cash advance items required under
5 paragraph (5) of subsection (b) of Section 10: "We charge
6 you for our services in obtaining: (specify cash advance
7 items)." if the funeral provider makes a charge upon, or
8 receives and retains a rebate, commission, or trade or
9 volume discount upon a cash advance item.

10 Section 20. Required purchase of funeral goods or funeral
11 services.

12 (a) Casket for cremation provisions.

13 (1) Unfair or deceptive acts or practices. In selling
14 or offering to sell funeral goods or funeral services to
15 the public, it is an unfair or deceptive act or practice
16 for a funeral provider, or a crematory, to require that a
17 casket be purchased for direct cremation.

18 (2) Preventive requirement. To prevent this unfair or
19 deceptive act or practice, a funeral provider must make an
20 alternative container available for direct cremations, if
21 the provider arranges direct cremations.

22 (b) Other required purchases of funeral goods or funeral
23 services.

24 (1) Unfair or deceptive acts or practices. In selling
25 or offering to sell funeral goods or funeral services, it
26 is an unfair or deceptive act or practice for a funeral
27 provider to:

28 (A) Condition the furnishing of any funeral good or
29 funeral service to a person arranging a funeral upon
30 the purchase of any other funeral good or funeral
31 service, except as required by law or as otherwise
32 permitted under this subsection; or

33 (B) Charge any fee as a condition to furnishing any

1 funeral goods or funeral services to a person arranging
2 a funeral, other than the fees for services of the
3 funeral director and staff, other funeral services or
4 funeral goods selected by the purchaser, and other
5 funeral goods or services required to be purchased.

6 (2) Preventive requirements. To prevent unfair or
7 deceptive acts or practices under this subsection (b), a
8 funeral provider must:

9 (A) Place the following statement of disclosure in
10 the general price list, immediately above the prices
11 required under paragraph (4) of subsection (b) of
12 Section 10: "The goods or services shown below are
13 those we can provide to our customers. You may choose
14 only the items you desire. If legal or other
15 requirements mean you must buy any items you did not
16 specifically ask for, we will explain the reason in
17 writing on the statement we provide describing the
18 funeral goods and services you selected." Provided,
19 however, that if the charge for "services of funeral
20 director and staff" can not be declined by the
21 purchaser, the statement shall include the sentence:
22 "However, any funeral arrangements you select will
23 include a charge for our basic services." between the
24 second and third sentences of the statement of
25 disclosure otherwise required under this subparagraph
26 (A). The statement may include the phrase "and
27 overhead" after the word "services" if the fee includes
28 a charge for the recovery of unallocated funeral
29 provider overhead; and

30 (B) Place the following disclosure in the
31 statement of funeral goods and services selected:
32 "Charges are only for those items that you selected or
33 that are required. If we are required by law or by a
34 cemetery or crematory to use any items, we will explain

1 the reasons in writing below."

2 Section 25. Services provided without prior approval.

3 (a) Unfair or deceptive acts or practices. In selling or
4 offering to sell funeral goods or funeral services to the
5 public, it is an unfair or deceptive act or practice for any
6 funeral provider to embalm a deceased human body for a fee
7 unless:

8 (1) State or local law or regulation requires embalming
9 in the particular circumstances regardless of any funeral
10 choice that the family might make;

11 (2) Prior approval for embalming, expressly described,
12 has been obtained from a family member or other authorized
13 person; or

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

25 (b) Preventive requirement. To prevent these unfair or
26 deceptive acts or practices, a funeral provider must include on
27 the itemized statement of funeral goods or services selected,
28 required under paragraph (5) of subsection (b) of Section 10,
29 the statement: "If you selected a funeral that may require
30 embalming, such as a funeral with viewing, you may have to pay
31 for embalming. You do not have to pay for embalming you did not
32 approve if you selected arrangements such as a direct cremation
33 or immediate burial. If we charged for embalming, we will

1 explain why below."

2 Section 30. Retention of documents. To prevent the unfair
3 or deceptive acts or practices specified in Sections 5 and 10
4 of this Act, a funeral provider must retain and make available
5 for inspection by Commission officials true and accurate copies
6 of the price lists specified in subdivisions (b)(2) through
7 (b)(4) of Section 10 for at least one year after the date of
8 their last distribution to customers, and a copy of each
9 statement of funeral goods and services selected, as required
10 by paragraph (5) of subsection (b) of Section 10, for at least
11 one year from the date of the arrangements conference.

12 Section 35. Comprehension of disclosures. To prevent the
13 unfair or deceptive acts or practices specified in Sections 5
14 and 10, a funeral provider must make all disclosures required
15 by those Sections in a clear and conspicuous manner. A funeral
16 provider shall not include in the casket, outer burial
17 container, and general price lists, required under
18 subdivisions (b)(2) through (b)(4) of Section 10, any statement
19 or information that alters or contradicts the information
20 required by that Section to be included in those lists.

21 Section 40. Severability. If any provisions of this Act or
22 its application to any person or circumstance is held invalid,
23 the invalidity of that provision or application does not affect
24 other provisions or applications of this Act that can be given
25 effect without the invalid provision or application.

26 Section 45. Enforcement.

27 (a) The Attorney General and or the State's Attorney may
28 bring a civil action as well as obtain injunctive relief on
29 behalf of the residents of the State in the Circuit Court of
30 the county of appropriate jurisdiction to enforce the

1 provisions of this Act.

2 (b) A person who violates any provision of this Act commits
3 an unlawful practice within the meaning of the Consumer Fraud
4 and Deceptive Business Practices Act.

5 (c) Any person that violates or fails to comply with any
6 provisions of this Act shall be subject to a civil penalty of
7 no more than \$5,000 for each offense.

8 Section 90. The Consumer Fraud and Deceptive Business
9 Practices Act is amended by changing Section 2Z as follows:

10 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

11 Sec. 2Z. Violations of other Acts. Any person who knowingly
12 violates the Automotive Repair Act, the Home Repair and
13 Remodeling Act, the Dance Studio Act, the Physical Fitness
14 Services Act, the Hearing Instrument Consumer Protection Act,
15 the Illinois Union Label Act, the Job Referral and Job Listing
16 Services Consumer Protection Act, the Travel Promotion
17 Consumer Protection Act, the Credit Services Organizations
18 Act, the Automatic Telephone Dialers Act, the Pay-Per-Call
19 Services Consumer Protection Act, the Telephone Solicitations
20 Act, the Illinois Funeral or Burial Funds Act, the Cemetery
21 Care Act, the Funeral Practices Act, the Safe and Hygienic Bed
22 Act, the Pre-Need Cemetery Sales Act, the High Risk Home Loan
23 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Tax
24 Act, subsection (a) or (b) of Section 3-10 of the Cigarette Use
25 Tax Act, the Electronic Mail Act, or paragraph (6) of
26 subsection (k) of Section 6-305 of the Illinois Vehicle Code
27 commits an unlawful practice within the meaning of this Act.

28 (Source: P.A. 92-426, eff. 1-1-02; 93-561, eff. 1-1-04.)".