

1999 DRAFTING REQUEST

Assembly Amendment (AA-ASA1-AB133)

Received: 06/24/99

Received By: **kunkemd**

Wanted: As time permits

Identical to LRB:

For: **Senate Democratic Caucus**

By/Representing: **Walter**

This file may be shown to any legislator: **NO**

Drafter: **kunkemd**

May Contact:

Alt. Drafters:

Subject: **Occupational Reg. - cem reg**

Extra Copies:

Pre Topic:

SDC:.....Walter - Am.#3509,

Topic:

Consumer disclosures for sales of caskets, outer burial containers and cemetery merchandise

Instructions:

See Attached

Drafting History:

<u>Vers.</u>	<u>Drafted</u>	<u>Reviewed</u>	<u>Typed</u>	<u>Proofed</u>	<u>Submitted</u>	<u>Jacketed</u>	<u>Required</u>
/?	kunkemd 06/24/99	jgeller 06/24/99		_____			
/1			hhagen 06/25/99	_____	lrb_docadmin 06/26/99		

FE Sent For:

<END>

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May Contact:

Alt. Drafters: *RPN*

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1?	kunkemd	<i>1/1 6/24 jlg</i>		_____			

FE Sent For:

<END>

61262

yes

Agency: Regulation and Licensing

caucus number 2104

duplicate flag:
duplicate with:

Other reference numbers:	LFB Sum #:
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: Defines Gaming Device, LRBb0449/1dn

other notes

drafting instructions: See above and attached
more instructions:

caucus number 3509

duplicate flag:
duplicate with:

Other reference numbers:	LFB Sum #:
bill number/amendment number:	
LRB draft #	LRB P-draft:

description: Require anyone selling caskets, outer burial containers or cemetery merchandise to make the same consumer disclosures that licensed funeral directors must make when selling these products

other notes

drafting instructions: See above and attached
more instructions:

Agency: Regulation and Licensing

Number of Amendments: 2

+

CN 3509

Draft request

Agency: Department of Regulation and Licensing

Require anyone selling caskets, outer burial containers or cemetery merchandise to make the same consumer disclosures that licensed funeral directors must make when selling these products.

This is a new provision nearly identical to one included the Assembly Republican caucus budget offered by Rep. Montgomery. However, the motion drafted for Rep. Montgomery requires the inclusion of one additional sentence for the disclosure provision:

The seller is not a funeral director and is not licensed as a funeral director by the Department of Regulation and Licensing, and may not offer or perform funeral services.

Cost: ---

Contact: David Worzala, Legislative Fiscal Bureau
Mark Kunkel, Legislative Reference Bureau

1262/1

D-note

SOC.....

↓
+ RPN (JLg)

ARC..... Miller - Am. #35, Consumer disclosures for funeral goods and services

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1375, line 12: after that line insert:

3 **"SECTION 2922g.** 440.947 of the statutes is created to read:

4 **440.947 Disclosures and representations for certain sales. (1)** In this
5 section:

6 (a) "Cash advance item" means personal property or a service that is obtained
7 by a person from a 3rd party and that is paid for by the person on behalf of, and
8 subject to reimbursement from, a buyer of a casket, outer burial container or
9 cemetery merchandise from the person. "Cash advance item" includes cemetery or

1 crematory services, pallbearers, public transportation, clergy honoraria, flowers,
2 musicians or vocalists, nurses, obituary notices, gratuities and death certificates.

3 (b) “Direct cremation service” means the disposition of human remains by
4 cremation without any formal viewing, visitation or ceremony in which the body of
5 the deceased is present.

6 (c) “Outer burial container” has the meaning given in s. 157.061 (11g).

7 (d) “Person” does not include a person issued a funeral director’s license under
8 ch. 445 or an operator of a funeral establishment, as defined in s. 445.01 (7).

9 (2) No person may sell or offer for sale a casket, outer burial container or
10 cemetery merchandise unless the person has provided to the buyer, prior to the sale,
11 a price list in a clearly legible and conspicuous format that includes each of the
12 following:

13 (a) The name, address and telephone number of the person’s place of business.

14 (b) The effective date of the price list.

15 (c) The price and a description of each type of casket, outer burial container and
16 cemetery merchandise that the person usually offers for sale without special
17 ordering. A description required under this paragraph shall enable a buyer to
18 identify and understand the specific casket, outer burial container or cemetery
19 merchandise that is offered for sale.

20 (d) If the person usually offers an outer burial container for sale without special
21 ordering, a statement that is identical to the following: “State law does not require
22 that you buy a container to surround the casket in the grave. However, many
23 cemeteries require that you have such a container so that the grave will not sink in.
24 Either a grave liner or a burial vault will satisfy these requirements.”

1 (e) The price and a description of any direct cremation or burial service offered
2 by the person and, if the person offers direct cremation service, a statement that is
3 identical to the following: “If you want to arrange a direct cremation, you can use an
4 alternative container. Alternative containers encase the body and can be made of
5 materials like fiberboard or composition materials (with or without an outside
6 covering). The containers that we provide are [insert a description of the
7 containers offered for direct cremation].”

8 (f) The price and a description of any service offered by the person for the use
9 any facilities, equipment or staff related to a viewing, funeral ceremony, memorial
10 service or graveside service.

11 (g) The amount and a description of any basic service fee that is charged in
12 addition to any price described under pars. (c), (e) or (f).

13 (3) A person who sells a casket, outer burial container or cemetery merchandise
14 shall, immediately after completing the sale, provide the buyer with a form in a
15 clearly legible and conspicuous format that includes each of the following:

16 (a) The price and a description of the casket, outer burial container or cemetery
17 merchandise.

18 (b) The price and a description of any service specified in sub. (2) (e) or (f) that
19 is sold in addition to the casket, outer burial container or cemetery merchandise.

20 (c) The amount and a description of any basic service fee that is charged in
21 addition to any price described under par. (a) or (b).

22 (d) A statement that the buyer may be charged only for the items that he or she
23 has selected or that are required by law and a description and explanation of any
24 items that he or she is required by law to purchase.

1 (e) A description of any charge for a cash advance item, including any
2 commission, discount or rebate that the person receives for a cash advance item from
3 the 3rd party from which the cash advance item is obtained and that the person does
4 not pass on to the buyer.

5 (4) No person who sells a casket, outer burial container or cemetery
6 merchandise may do any of the following:

7 (a) Provide inaccurate information regarding the information specified in sub.
8 (2) (c), (e), (f) or (g) to a prospective buyer who contacts the person by telephone.

9 (b) Represent that state or local law requires a prospective buyer to purchase
10 a casket for a direct cremation service.

11 (c) Misrepresent to a prospective buyer any requirement under federal, state
12 or local law or under the rules of any cemetery, mausoleum or crematory relating to
13 the use of a casket, outer burial container or cemetery merchandise.

14 (d) Represent that any casket, outer burial container or cemetery merchandise
15 will delay the natural decomposition of human remains for a long or indefinite period
16 of time.

17 (e) Require a buyer to pay an additional fee or surcharge if the buyer purchases
18 a casket, outer burial container or cemetery merchandise from a 3rd party.

19 (f) Alter a price specified in sub. (2) (c), (e), (f) or (g) based on the type of casket,
20 outer burial container or cemetery merchandise purchased by a buyer.

21 (5) A person who sells a casket, outer burial container or cemetery merchandise
22 shall retain a copy of the price list specified in sub. (2) (intro.) for at least one year
23 after the date of its last distribution to a prospective buyer and shall retain a copy
24 of each form that is provided to a buyer under sub. (3) (intro.) for at least one year

1 after completion of a sale. A person required to retain a copy under this subsection
2 shall make the copy available for inspection by the department upon request.

3 **SECTION 2922r.** 440.95 (3) of the statutes is amended to read:

4 440.95 (3) Except as provided in subs. (1) and (2), any person who violates s.
5 440.91 or 440.947 or any rule promulgated under s. 440.91 may be fined not more
6 than \$1,000 or imprisoned for not more than 6 months or both.”

7 **2.** Page 1595, line 21: after that line insert:

8 “(2g) DISCLOSURES AND REPRESENTATIONS FOR CERTAIN SALES. The treatment of
9 section 440.947 of the statutes first applies to sales or offers to sell that are made on
10 the effective date of this subsection.”

11 (END)

**DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU**

4
June 22, 1999

1262/1dn
LRBb
MDK:cmh:km

L + jlg


Robert Miller

Please review this amendment very carefully to make sure that it achieves your intent. In preparing the amendment, I relied on a summary of the federal requirements prepared by the Federal Trade Commission (FTC), "Complying with the Funeral Rule", which is dated August 1995. Please contact me if you want a copy of the FTC summary or if you have any questions.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: Mark.Kunkel@legis.state.wi.us

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb1262/P1dn
MDK&PRN:cmh:ksh

June 25, 1999

Robert Miller:

Please review this amendment very carefully to make sure that it achieves your intent. In preparing the amendment, I relied on a summary of the federal requirements prepared by the Federal Trade Commission (FTC), "Complying with the Funeral Rule", which is dated August 1995. Please contact me if you want a copy of the FTC summary or if you have any questions.

Mark D. Kunkel
Legislative Attorney
Phone: (608) 266-0131
E-mail: Mark.Kunkel@legis.state.wi.us



State of Wisconsin
1999 - 2000 LEGISLATURE

LRBb1262/1
MDK&RPN:cmh&jlg:ksh

SDC:.....Walter – Am.#3509, Consumer disclosures for sales of caskets, outer
burial containers and cemetery merchandise

FOR 1999-01 BUDGET — NOT READY FOR INTRODUCTION

CAUCUS AMENDMENT

TO ASSEMBLY SUBSTITUTE AMENDMENT 1,

TO 1999 ASSEMBLY BILL 133

1 At the locations indicated, amend the substitute amendment as follows:

2 **1.** Page 1375, line 12: after that line insert:

3 “SECTION 2922g. 440.947 of the statutes is created to read:

4 **440.947 Disclosures and representations for certain sales. (1)** In this
5 section:

6 (a) “Cash advance item” means personal property or a service that is obtained
7 by a person from a 3rd party and that is paid for by the person on behalf of, and
8 subject to reimbursement from, a buyer of a casket, outer burial container or
9 cemetery merchandise from the person. “Cash advance item” includes cemetery or

1 crematory services, pallbearers, public transportation, clergy honoraria, flowers,
2 musicians or vocalists, nurses, obituary notices, gratuities and death certificates.

3 (b) “Direct cremation service” means the disposition of human remains by
4 cremation without any formal viewing, visitation or ceremony in which the body of
5 the deceased is present.

6 (c) “Outer burial container” has the meaning given in s. 157.061 (11g).

7 (d) “Person” does not include a person issued a funeral director’s license under
8 ch. 445 or an operator of a funeral establishment, as defined in s. 445.01 (7).

9 (2) No person may sell or offer for sale a casket, outer burial container or
10 cemetery merchandise unless the person has provided to the buyer, prior to the sale,
11 a price list in a clearly legible and conspicuous format that includes each of the
12 following:

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14 (b) The effective date of the price list.

15 (c) The price and a description of each type of casket, outer burial container and
16 cemetery merchandise that the person usually offers for sale without special
17 ordering. A description required under this paragraph shall enable a buyer to
18 identify and understand the specific casket, outer burial container or cemetery
19 merchandise that is offered for sale.

20 (d) If the person usually offers an outer burial container for sale without special
21 ordering, a statement that is identical to the following: “State law does not require
22 that you buy a container to surround the casket in the grave. However, many
23 cemeteries require that you have such a container so that the grave will not sink in.
24 Either a grave liner or a burial vault will satisfy these requirements.”

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11 (g) The amount and a description of any basic service fee that is charged in
12 addition to any price described under pars. (c), (e) or (f).

13 **(3)** A person who sells a casket, outer burial container or cemetery merchandise
14 shall, immediately after completing the sale, provide the buyer with a form in a
15 clearly legible and conspicuous format that includes each of the following:

16 (a) The price and a description of the casket, outer burial container or cemetery
17 merchandise.

18 (b) The price and a description of any service specified in sub. (2) (e) or (f) that
19 is sold in addition to the casket, outer burial container or cemetery merchandise.

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21 addition to any price described under par. (a) or (b).

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8 “(2g) DISCLOSURES AND REPRESENTATIONS FOR CERTAIN SALES. The treatment of
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10 the effective date of this subsection.”.

11 (END)