

By Thursday
1/20
4:00pm

D-NOTE

1

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

RM NOT
RUN



re-gen cert.

1 AN ACT ~~to renumber and amend~~ 445.01 (6); ~~to amend~~ 59.39, 157.067 (title),
2 157.067 (1) and (2), 157.067 (2m) (intro.), 157.067 (2m) (b), 157.067 (2m) (c),
3 440.08 (2) (a) 37., 440.92 (4) (a) (intro.), 440.95 (3), 445.01 (2), 445.01 (5) (c),
4 445.01 (7), 445.04 (1), 445.06, 445.095 (2) (b), 445.095 (2) (c), 445.095 (2) (d),
5 445.105 (1), 445.105 (2), (3), (4) and (5), 445.12 (3) (intro.), 445.12 (3) (b), 445.12
6 (3g) (a) (intro.), 445.12 (3g) (b) (intro.), 445.12 (3g) (c), 445.12 (3r) (intro.), 445.12
7 (3r) (a), 445.12 (4), 445.12 (6), 445.12 (7), 445.125 (1) (a) 2., 445.13 (1), 445.15
8 (1m), 614.82 (2), 632.41 (2) (b) 1. and 632.41 (2) (b) 3.; and ~~to create~~ 157.114,
9 440.08 (2) (a) 37m., 440.947, 445.01 (2r), 445.095 (2) (e), 445.105 (1m), 445.125
10 (1) (am), 445.125 (3m) (a) 3m. and 445.125 (3g) of the statutes; **relating to:**
11 ~~sales of cemetery merchandise, caskets and outer burial containers, provisions~~
12 ~~of burials by cemetery authorities~~ permits for certain funeral services held in

INSERT A

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certain establishments ~~the amount of irrevocable burial trusts, disclosures~~
~~required for burial trusts and providing a penalty.~~

Analysis by the Legislative Reference Bureau

~~This is a preliminary draft. An analysis will be prepared for a subsequent version of this draft.~~

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

stays

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

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SECTION 1. 59.39 of the statutes is amended to read:

59.39 Coroner or medical examiner as funeral director, limitation. No coroner, deputy coroner, medical examiner or assistant medical examiner who is a licensed funeral director, an owner or operator of a class A funeral establishment as defined in s. 445.01 (2g), or an employe of a class A funeral establishment, and no class A funeral establishment with which such a coroner, deputy coroner, medical examiner or assistant medical examiner is associated, shall perform any of the services of a funeral director upon the body of any person whose death is required by law to be investigated by such coroner, his or her deputy, medical examiner or assistant medical examiner. Any person who violates this section shall be fined not more than \$50.

SECTION 2. 157.067 (title) of the statutes is amended to read:

157.067 (title) Connection with class A funeral establishment prohibited.

SECTION 3. 157.067 (1) and (2) of the statutes are amended to read:

1 157.067 (1) In this section, "class A funeral establishment" has the meaning
2 given in s. 445.01 ~~(6)~~ (2g).

3 (2) No cemetery authority may permit a class A funeral establishment to be
4 located in the cemetery. No cemetery authority may have or permit an employe or
5 agent of the cemetery to have any ownership, operation or other financial interest
6 in a class A funeral establishment. Except as provided in sub. (2m), no cemetery
7 authority or employe or agent of a cemetery may, directly or indirectly, receive or
8 accept any commission, fee, remuneration or benefit of any kind from a class A
9 funeral establishment or from an owner, employe or agent of a class A funeral
10 establishment.

11 **SECTION 4.** 157.067 (2m) (intro.) of the statutes is amended to read:

12 157.067 (2m) (intro.) A cemetery authority may accept a fee or remuneration
13 from a class A funeral establishment or from an owner, employe or agent of a class
14 A funeral establishment if all of the following requirements are satisfied:

15 **SECTION 5.** 157.067 (2m) (b) of the statutes is amended to read:

16 157.067 (2m) (b) The fee or remuneration payment is made on behalf of the
17 person who is responsible for paying for the class A funeral establishment's services.

18 **SECTION 6.** 157.067 (2m) (c) of the statutes is amended to read:

19 157.067 (2m) (c) The class A funeral establishment will be reimbursed for the
20 fee or remuneration by charging the person who is responsible for paying the funeral
21 expenses an amount that is identical to the amount of the fee or remuneration paid
22 by the class A funeral establishment to the cemetery authority.

23 **SECTION 7.** 157.114 of the statutes is created to read:

24 **157.114 Duty to provide for burials.** A cemetery authority shall, insofar as
25 practicable, provide for burials during each season, including winter. Nothing in this

1 section may be construed to prohibit a cemetery authority from charging a
2 reasonable fee to recover the costs related to providing for a burial during difficult
3 weather conditions.

As affected by 1999 Wisconsin Act 91

4 SECTION 8. 440.08 (2) (a) 37. of the statutes is amended to read:

5 440.08 (2) (a) 37. Funeral establishment, class A: June 1 of each odd-numbered

6 year; ~~***~~ **\$47** - plain text

7 SECTION 9. 440.08 (2) (a) 37m. of the statutes is created to read:

8 440.08 (2) (a) 37m. Funeral establishment, class B: June 1 of each

9 odd-numbered year; \$47.

10 SECTION 10. 440.92 (4) (a) (intro.) of the statutes is amended to read:

11 440.92 (4) (a) (intro.) Any person who sells or solicits the sale of cemetery
12 merchandise under a preneed sales contract is not required to be registered under
13 sub. (1) and the requirements of sub. (3) (a) and (b) do not apply to the sale if all
14 payments received under the preneed sales contract are trusted as required under
15 s. 445.125 (1) (a) 1. and (am) or if all of the following conditions are met:

16 SECTION 11. 440.947 of the statutes is created to read:

17 **440.947 Disclosures and representations for certain sales.** (1) In this
18 section:

19 (a) "Cash advance item" means personal property or a service that is obtained
20 by a person from a 3rd party and that is paid for by the person on behalf of, and
21 subject to reimbursement from, a buyer of a casket, outer burial container or
22 cemetery merchandise from the person. "Cash advance item" includes cemetery or
23 crematory services, pallbearers, public transportation, clergy honoraria, flowers,
24 musicians or vocalists, nurses, obituary notices, gratuities and death certificates.

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

4 (c) "Outer burial container" has the meaning given in s. 157.061 (11g).

5 (d) "Person" does not include a person issued a funeral director's license under
6 ch. 445 or an operator of a class A funeral establishment, as defined in s. 445.01 (2g).

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

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

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

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

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

23 (e) The price and a description of any direct cremation or burial service offered
24 by the person and, if the person offers direct cremation service, a statement that is
25 identical to the following: "If you want to arrange a direct cremation, you can use an

1 alternative container. Alternative containers encase the body and can be made of
2 materials like fiberboard or composition materials (with or without an outside
3 covering). The containers that we provide are [insert a description of the
4 containers offered for direct cremation].”

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

17 (5) A person who sells a casket, outer burial container or cemetery merchandise
18 shall retain a copy of the price list specified in sub. (2) (intro.) for at least one year
19 after the date of its last distribution to a prospective buyer and shall retain a copy
20 of each form that is provided to a buyer under sub. (3) (intro.) for at least one year
21 after completion of a sale. A person required to retain a copy under this subsection
22 shall make the copy available for inspection by the department upon request.

23 SECTION 12. 440.95 (3) of the statutes is amended to read:

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

4 SECTION 13. 445.01 (2) of the statutes is amended to read:

5 445.01 (2) An "apprentice funeral director" is any person engaged in the
6 learning of the practice of funeral directing under the instruction and personal
7 supervision of a duly licensed and registered funeral director under this chapter,
8 whose class A funeral establishment is located in this state; provided, that no person
9 shall serve or attempt to serve as such apprentice funeral director under any such
10 funeral director until the person has filed registration thereof with the examining
11 board.

12 SECTION 14. 445.01 (2r) of the statutes is created to read:

13 445.01 (2r) "Class B funeral establishment" means any building or part of a
14 building, other than a class A funeral establishment, private residence, church or
15 lodge hall, in which an operator of a class A funeral establishment holds or conducts
16 funeral services.

17 SECTION 15. 445.01 (5) (c) of the statutes is amended to read:

18 445.01 (5) (c) A person who, in connection with his or her name or class A
19 funeral establishment, uses the words, "funeral director", "mortician" or any other
20 title implying that he or she is engaged as a funeral director as defined in this
21 subsection.

22 SECTION 16. 445.01 (6) of the statutes is renumbered 445.01 (2g) and amended
23 to read:

24 445.01 (2g) "Funeral Class A funeral establishment" means any building or
25 part of a building used and held out to the public as being used in the care and

1 preparation for burial or transportation of dead human bodies or for holding or
2 conducting of funeral services. ~~“Funeral~~ Class A funeral establishment” does not
3 include a class B funeral establishment or a building or part of a building that is
4 erected under s. 157.11 (1) for holding or conducting funeral services if dead human
5 bodies are not cared for or prepared for burial or transportation in the building. A
6 class A funeral establishment must contain a preparation room equipped with tile,
7 cement or composition floor, necessary drainage and ventilation and contain
8 necessary instruments and supplies for the preparation and embalming of dead
9 human bodies for burial, transportation or other disposition.

10 **SECTION 17.** 445.01 (7) of the statutes is amended to read:

11 445.01 (7) “Operator of class A funeral establishment” means any person who
12 conducts, maintains, manages or operates a class A funeral establishment.

13 **SECTION 18.** 445.04 (1) of the statutes is amended to read:

14 445.04 (1) The Except for funeral services held or conducted in a class B funeral
15 establishment for which a permit has been issued under s. 445.105 (1m), the business
16 of a funeral director must be conducted in a class A funeral establishment equipped
17 for the care and preparation for burial or transportation of dead human bodies. What
18 shall be deemed “necessary equipment” shall be defined in the rules.

19 **SECTION 19.** 445.06 of the statutes is amended to read:

20 **445.06 Renewal of licenses.** The renewal date and renewal fee for a funeral
21 directors’ license are specified under s. 440.08 (2) (a). Before any renewal license is
22 delivered to any licensed funeral director, proof must be furnished by the applicant,
23 to the satisfaction of the examining board, that the applicant is doing business at a
24 recognized class A funeral establishment, except that if such applicant is not doing
25 business at a recognized class A funeral establishment at the time of application for

1 a license, the applicant shall be given a certificate, without additional cost, to the
2 effect that the applicant is in good standing as a funeral director, and shall be entitled
3 to a renewal license at any time during that license period, when located at a
4 recognized class A funeral establishment, without payment of any additional
5 renewal fee. The applicant must also furnish proof of completion of at least 15 hours
6 of continuing education during the previous 2-year licensure period, except that new
7 licensees are exempt from this requirement during the time between initial licensure
8 and commencement of a full 2-year licensure period.

9 **SECTION 20.** 445.095 (2) (b) of the statutes is amended to read:

10 445.095 (2) (b) The term of a registered apprentice shall be recognized only
11 when given employment in a class A funeral establishment under the personal
12 supervision of a licensed funeral director.

13 **SECTION 21.** 445.095 (2) (c) of the statutes is amended to read:

14 445.095 (2) (c) Only one funeral director apprenticeship shall be recognized by
15 the examining board at any one class A funeral establishment in a current year that
16 has had less than 150 funeral services, as determined under par. (e), or prepared less
17 than 150 bodies for burial or shipment during the preceding year.

18 **SECTION 22.** 445.095 (2) (d) of the statutes is amended to read:

19 445.095 (2) (d) The examining board may recognize a 2nd funeral director
20 apprenticeship at a class A funeral establishment during the current year that has
21 had 150 funerals or more, as determined under par. (e), and has prepared 150 bodies
22 or more for burial or shipment during the preceding year, provided that full-time
23 employment is given to at least 2 licensed funeral directors at such class A funeral
24 establishment.

25 **SECTION 23.** 445.095 (2) (e) of the statutes is created to read:

1 445.095 (2) (e) For purposes of pars. (c) and (d), the number of funeral services
2 held at a class A funeral establishment during a year shall include the number of
3 funeral services held during that year at any class B funeral establishment for which
4 the operator of the class A funeral establishment has been issued a permit under s.
5 445.105 (1m).

6 **SECTION 24.** 445.105 (1) of the statutes is amended to read:

7 445.105 (1) No person shall conduct, maintain, manage or operate a class A
8 funeral establishment unless a permit for each such class A funeral establishment
9 has been issued by the examining board and is conspicuously displayed in such class
10 A funeral establishment. In case of funeral services held in any private residence,
11 church, or lodge hall, no permit shall be required.

12 **SECTION 25.** 445.105 (1m) of the statutes is created to read:

13 445.105 (1m) No operator of a class A funeral establishment may hold or
14 conduct funeral services in any class B funeral establishment unless a permit for the
15 class A funeral establishment has been issued under sub. (1) and the operator of the
16 class A funeral establishment has been issued a permit for each class B funeral
17 establishment by the examining board under this subsection. The examining board
18 may not require a class B funeral establishment to have in charge, full time therein,
19 a licensed funeral director as a condition for issuing a permit under this subsection.
20 An operator of a class A funeral establishment that has been issued a permit for a
21 class B funeral establishment under this subsection shall conspicuously display the
22 permit in the class B funeral establishment and any licensed funeral director
23 employed by the operator of the class A funeral establishment may display his or her
24 funeral director's license in the class B funeral establishment.

25 **SECTION 26.** 445.105 (2), (3), (4) and (5) of the statutes are amended to read:

1 445.105 (2) No permit to operate a class A funeral establishment shall be issued
2 by the examining board unless each such class A funeral establishment has in
3 charge, full time therein, a licensed funeral director.

4 (3) Applications for class A and B funeral establishment permits shall be made
5 on forms provided by the department and filed with the department and shall be
6 accompanied by the fee specified under s. 440.05 (1). The renewal date and renewal
7 fee for a class A or B funeral establishment permit are specified under s. 440.08 (2)
8 (a).

9 (4) Violations of this chapter or any rules or regulations of the examining board
10 committed by any person, or an officer, agent or employe with the knowledge or
11 consent of any person operating such class A or B funeral establishments shall be
12 considered sufficient cause for reprimand or for limitation, suspension or revocation
13 of ~~such funeral establishment permit~~ the permits.

14 (5) No operator of a class A funeral establishment shall allow any licensed
15 funeral director to operate out of ~~such~~ the class A funeral establishment unless ~~such~~
16 the licensed funeral director is the operator of or an employe of the operator of a class
17 A funeral establishment which has been granted a permit by the examining board.

18 SECTION 27. 445.12 (3) (intro.) of the statutes is amended to read:

19 445.12 (3) (intro.) No licensed funeral director or operator of a class A funeral
20 establishment may, directly or indirectly, solicit a funeral service or the right to
21 prepare a dead human body for burial or transportation either before or after death
22 has occurred, or pay or cause to be paid any sum of money or other valuable
23 consideration for the securing of the right to do such work. This subsection does not
24 prohibit any of the following:

25 SECTION 28. 445.12 (3) (b) of the statutes is amended to read:

1 445.12 (3) (b) The solicitation or sale of burial agreements under s. 445.125 (1)
2 by a licensed funeral director, operator of a class A funeral establishment or agent
3 of a licensed funeral director or operator of a class A funeral establishment and the
4 solicitation and sale of burial agreements under s. 445.125 (3m) to the extent
5 permitted under sub. (3g) and s. 445.125 (3m).

6 **SECTION 29.** 445.12 (3g) (a) (intro.) of the statutes is amended to read:

7 445.12 (3g) (a) (intro.) Except as provided in pars. (b) and (c), a licensed funeral
8 director, agent of a licensed funeral director, operator of a class A funeral
9 establishment or agent of an operator of a class A funeral establishment may not
10 solicit the sale of a burial agreement under s. 445.125 (3m) by doing any of the
11 following:

12 **SECTION 30.** 445.12 (3g) (b) (intro.) of the statutes is amended to read:

13 445.12 (3g) (b) (intro.) A licensed funeral director, agent of a licensed funeral
14 director, operator of a class A funeral establishment or agent of an operator of a class
15 A funeral establishment may solicit the sale of a burial agreement under s. 445.125
16 (3m) by contacting any person if any of the following applies:

17 **SECTION 31.** 445.12 (3g) (c) of the statutes is amended to read:

18 445.12 (3g) (c) Paragraph (a) 3. does not prohibit a licensed funeral director,
19 agent of a licensed funeral director, operator of a class A funeral establishment or
20 agent of an operator of a class A funeral establishment from using mass-marketing
21 practices or in-person contacts or communications permitted under this section or
22 by a rule promulgated by the examining board under s. 445.125 (3m) (j) 2.

23 **SECTION 32.** 445.12 (3r) (intro.) of the statutes is amended to read:

24 445.12 (3r) (intro.) No licensed funeral director or operator of a class A funeral
25 establishment may do any of the following:

1 **SECTION 33.** 445.12 (3r) (a) of the statutes is amended to read:

2 445.12 (3r) (a) Require a person who enters into a burial agreement under s.
3 445.125 (3m) to purchase a life insurance policy used to fund the agreement from an
4 insurance intermediary licensed under ch. 628 who is specified by the funeral
5 director or operator of the class A funeral establishment.

6 **SECTION 34.** 445.12 (4) of the statutes is amended to read:

7 445.12 (4) No licensed funeral director or operator of a class A funeral
8 establishment may publish, or cause to be published, any false, misleading or
9 fraudulent advertisement, or take undue advantage of patrons or commit any
10 fraudulent act in the conduct of business, or do any other act not in accord with the
11 rules established by the department of health and family services and the examining
12 board and not in accord with proper business practice as applied to the business or
13 profession of funeral directing and embalming.

14 **SECTION 35.** 445.12 (6) of the statutes is amended to read:

15 445.12 (6) No licensed funeral director or operator of a class A funeral
16 establishment may operate a mortuary or class A or ^{CLASS} B funeral establishment that is
17 located in a cemetery or that is financially, through an ownership or operation
18 interest or otherwise, connected with a cemetery. No licensed funeral director or his
19 or her employe may, directly or indirectly, receive or accept any commission, fee,
20 remuneration or benefit of any kind from any cemetery, mausoleum or crematory or
21 from any owner, employe or agent thereof in connection with the sale or transfer of
22 any cemetery lot, outer burial container, burial privilege or cremation, nor act,
23 directly or indirectly, as a broker or jobber of any cemetery property or interest
24 therein.

25 **SECTION 36.** 445.12 (7) of the statutes is amended to read:

1 445.12 (7) No licensed funeral director or operator of a class A funeral
 2 establishment may sell or cause to be sold any shares of stocks, certificates of
 3 membership or any other form of certificate which provides for any burial benefit or
 4 any rebate at the time of death to the holders thereof. This subsection does not
 5 prohibit the sale of burial agreements to the extent permitted under, and that are in
 6 conformity with, s. 445.125 (3m).

7 **SECTION 37.** 445.125 (1) (a) 2. of the statutes is amended to read:
 8 445.125 (1) (a) 2. Notwithstanding s. 701.12 (1), such agreements an
 9 agreement under subd. 1. may be made irrevocable as to the first \$2,000 of the funds
 10 paid under the agreement by each depositor in an amount less than or equal to the
 11 total value of all merchandise or services that are provided by the beneficiary with
 12 respect to the potential decedent.

13 **SECTION 38.** 445.125 (1) (am) of the statutes is created to read:
 14 445.125 (1) (am) Before a beneficiary accepts any payment under an agreement
 15 under par. (a), the beneficiary shall, in writing that is clear and conspicuous, provide
 16 to the depositor each of the following:

17 1. An itemized list of all merchandise and services that are provided under the
 18 agreement, including any personal property or service that is obtained by the
 19 beneficiary from a 3rd party and that is paid by the beneficiary on behalf of, and
 20 subject to reimbursement from, the depositor.

21 2. All relevant information concerning the price of the merchandise and
 22 services, including a statement as to whether the purchase price of the merchandise
 23 and services is guaranteed at the time that the first payment under the agreement
 24 is made or whether the purchase price is to be determined at the time of need.

25 **SECTION 39.** 445.125 (3m) (a) 3m. of the statutes is created to read:

1 445.125 (3m) (a) 3m. "Funeral establishment" means a class A funeral
2 establishment.

3 SECTION 40. 445.125 (3q) of the statutes is created to read:

4 445.125 (3q) NOTICE REQUIRED. A funeral director or operator of a class A
5 funeral establishment shall notify the department of health and family services if the
6 funeral director or operator obtains knowledge that the funeral and burial expenses
7 of a decedent who is a recipient of medical assistance under subch. IV of ch. 49 are
8 less than the amount held in trust under an agreement under sub. (1) (a) 1. or less
9 than the amount of the proceeds of a life insurance policy used to fund a burial
10 agreement, as defined under sub. (3m) (a) 2.

11 SECTION 41. 445.13 (1) of the statutes is amended to read:

12 445.13 (1) Subject to the rules promulgated under s. 440.03 (1), the examining
13 board may make investigations, subpoena witnesses, conduct hearings, limit,
14 suspend or revoke a license of a funeral director, a certificate of registration of an
15 apprentice or a permit of an operator of a class A or B funeral establishment and
16 reprimand a funeral director, apprentice or operator of a class A or B funeral
17 establishment for any violation of 15 USC 45 and 57, of this chapter or of any rule
18 of the department of health and family services or the examining board, for
19 unprofessional conduct, including misrepresentation or fraud in obtaining the
20 license, permit or certificate of registration, or for any violation of this chapter or any
21 rule of the examining board by an agent authorized by the funeral director or
22 operator of the class A or B funeral establishment under s. 445.125 (3m) (b) 2. a.

23 SECTION 42. 445.15 (1m) of the statutes is amended to read:

24 445.15 (1m) A funeral director or operator of a class A funeral establishment
25 who violates s. 445.12 (3r) shall be fined not more than \$5,000 for each violation.

1 Each day that an insurance intermediary authorized by a funeral director or
2 operator of a class A funeral establishment fails to meet the training requirements
3 established by the examining board by rule under s. 445.125 (3m) (j) 1. a. constitutes
4 a separate violation of s. 445.12 (3r) (b).

5 **SECTION 43.** 614.82 (2) of the statutes is amended to read:

6 614.82 (2) INSTITUTIONS FOR CARRYING OUT FRATERNAL ACTIVITIES. A fraternal
7 may create, maintain and operate social, intellectual, educational, charitable,
8 benevolent, moral, fraternal, patriotic or religious institutions for the benefit of its
9 members or their families or dependents or for children insured by the fraternal. For
10 that purpose, it may own, hold or lease real or personal property within or outside
11 of this state. No ~~funeral or~~ undertaking or class A or ^{class} B funeral establishment may
12 be owned or operated by the fraternal. All such property shall be reported in the
13 annual statement or an appendix thereto but shall be given only nominal value in
14 the statement. No profit may be made on such institutions, but the income and
15 expenditures shall be reported separately in or as an appendix to the annual
16 statement. Any such institution may be separately incorporated under ch. 181 and
17 ownership of its stock shall be reported at nominal value.

18 **SECTION 44.** 632.41 (2) (b) 1. of the statutes is amended to read:

19 632.41 (2) (b) 1. A life insurance policy may provide for the assignment of the
20 proceeds of the policy to a funeral director or operator of a class A funeral
21 establishment if the insurance intermediary who sells or solicits the sale of the policy
22 is not an agent of the funeral director or operator of the class A funeral establishment
23 or if the assignment of proceeds is contingent on the provision of funeral merchandise
24 or funeral services as provided for in a burial agreement that satisfies the

1 requirements of s. 445.125 (3m) and rules promulgated by the funeral directors
2 examining board under s. 445.125 (3m) (j) 1. b.

3 **SECTION 45.** 632.41 (2) (b) 3. of the statutes is amended to read:

4 632.41 (2) (b) 3. A life insurance policy sold under subd. 1. shall permit the
5 policyholder to designate a different beneficiary, after written notice to the current
6 beneficiary, and a different funeral director or operator of a class A funeral
7 establishment that is to receive the assignment of proceeds, after written notice to
8 the current funeral director or operator of the class A funeral establishment.

9 **SECTION 46. Initial applicability.**

10 ~~(1) The treatment of sections ~~440.922 (4) (a) (intro.)~~ and ~~445.125 (1) (a) 2.~~ and
11 ~~(am)~~ of the statutes first applies to contracts and agreements entered into on the
12 effective date of this subsection.~~

13 ~~(2) The treatment of section ~~440.947~~ of the statutes first applies to sales or
14 offers to sell that are made on the effective date of this subsection.~~

15 (3) The treatment of section 445.13 (1) of the statutes first applies to
16 unprofessional conduct and violations that occur on the effective date of this
17 subsection.

18 **SECTION 47. Effective date.**

19 (1) This act takes effect on the first day of the 6th month beginning after
20 publication.

21 (END)

1

^{two}
INSERT A:

Under current law, no person may operate a funeral establishment without a permit granted by the funeral directors examining board (board) in the department of regulation and licensing (DORL). A funeral establishment is defined as a building or part of a building used for preparing dead human bodies for burial or transportation or for holding funeral services. The board may grant a permit to the operator of a funeral establishment only if a funeral director licensed by the board is in full-time charge of the establishment. In addition, the business of a funeral director may only be conducted in a funeral establishment. Also under current law, certain requirements apply to funeral establishments. For example, the operator of a cemetery may not permit a funeral establishment to be located in the cemetery.

class This bill creates definitions for ^{two} types of funeral establishments: class A and B funeral establishments. A class A funeral establishment has the same definition as a funeral establishment under current law. The bill defines a class B funeral establishment as a building or part of a building, other than a class A funeral establishment, in which the operator of a class A funeral establishment conducts funeral services. The bill requires a funeral director to conduct his or her business as a funeral director in a class A funeral establishment, except for funeral services that are conducted in a class B funeral establishment. All of the other requirements that apply to funeral establishments under current law apply to class A funeral establishments under the bill. Therefore, for example, the operator of a cemetery may not permit a class A funeral establishment to be located in the cemetery. ~~per~~

two The bill prohibits the operator of a class A funeral establishment from conducting funeral services in a class B funeral establishment unless the board has issued a permit for the class B funeral establishment. A class B funeral establishment permit, like any other credential issued by a board in DORL, must be renewed every ^{two} years. The board is prohibited from requiring a class B funeral establishment to have a licensed funeral director in full-time charge of the establishment. An operator of a class A funeral establishment that is issued a permit for a class B funeral establishment must conspicuously display the permit in the class B funeral establishment. In addition, any licensed funeral director employed by the operator of the class A funeral establishment may display his or her funeral director's license in the class B funeral establishment.

Also under current law, certain requirements apply to funeral director apprentices, including the requirement that, in each year, the board may recognize only one apprentice at a funeral establishment that has had less than 150 funeral services or at which less than 150 bodies were prepared for burial or shipment in the preceding year. The board may recognize a ~~two~~ funeral director apprentice at a funeral establishment if these numbers are equaled or exceeded. Under this bill, for purposes of determining compliance with these requirements, the number of funeral services conducted at a class A funeral establishment includes the number of funeral services conducted at a class B funeral establishment for which the operator of the class A funeral establishment has been issued a permit under the bill.

a funeral establishment

second

ll

For further information see the *state* fiscal estimate, which will be printed as an appendix to this bill.

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

LRB-0832/1dn
MDK.....

Senator Shibilski:

This version is identical to LRB-0832/P2, except that all provisions that are not related to class A or B permits have been removed.

class

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DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-0832/1dn
MDK:cmh:hmh

January 19, 2000

Senator Shibilski:

This version is identical to LRB-0832/P2, except that all provisions that are not related to class A or class B permits have been removed.

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Barman, Mike

From: Kunkel, Mark
Sent: Tuesday, February 29, 2000 2:52 PM
To: Barman, Mike
Subject: 99-0832/1

Mike, can you or someone else get the above bill jacketed for Sen. Shibilski? Thanks,

Mark Kunkel
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