

2003 DRAFTING REQUEST

Bill

Received: 12/02/2002

Received By: **mkunkel**

Wanted: **As time permits**

Identical to LRB:

For: **Dale Schultz (608) 266-0703**

By/Representing: **Tom Hanson**

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

Drafter: **mkunkel**

May Contact: **Tom Hanson: 256-5299**

Addl. Drafters:

Subject: **Occupational Reg. - misc**

Extra Copies: **PJH**

Submit via email: **YES**

Requester's email: **Sen.Schultz@legis.state.wi.us**

Carbon copy (CC:) to: **elongmire@patrickessie.com
pessie@patrickessie.com
thanson@chartermi.net**

Pre Topic:

No specific pre topic given

Topic:

Regulation of funeral establishments

Instructions:

See Attached

Drafting History:

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/?	mkunkel 03/11/2003	csicilia 03/12/2003		_____			S&L Crime
/P1			rschluet 03/12/2003	_____	amentkow 03/12/2003		S&L Crime

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/7	mkunkel 02/05/2004	csicilia 02/05/2004	rschluet 02/05/2004	_____	lnorthro 02/05/2004		S&L Crime
/8	mkunkel 02/17/2004	csicilia 02/17/2004	pgreensl 02/17/2004	_____	sbasford 02/18/2004	mbarman 03/08/2004	

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Handwritten notes:
 - Next to /P1: 16
 - Next to rschluet: 1/16
 - Next to amentkow: J/Selb
 - Below J/Selb: 1/16

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16 cjs 1/16
04

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Handwritten signatures and initials: *X2 cs B/11*, *RS*, *8-112*

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1 gjs 7/31/03 ↓

Vers. Drafted Reviewed Typed Proofed Submitted Jacketed Required

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7-31

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chris 7-31

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May Contact: **Tom Hanson: 256-5299**

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Subject: **Occupational Reg. - misc**

Extra Copies: **PJH**

Submit via email: **YES**

Requester's email: **Rep.Foti@legis.state.wi.us**

Carbon copy (CC:) to:

Pre Topic:

No specific pre topic given

Topic:

Regulation of funeral establishments

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>
/?	mkunkel 03/11/2003	csicilia 03/12/2003					S&L Crime

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1/p2 cjs 5/1
03

rschluet
03/12/2003
5/2
18/10
PJH

FE Sent For:

<END>

2003 DRAFTING REQUEST

Bill

Received: 12/02/2002

Received By: mkunkel

Wanted: As time permits

Identical to LRB:

For: Steven Foti (608) 266-2401

By/Representing: Tom Hanson

This file may be shown to any legislator: NO

Drafter: mkunkel

May Contact: Tom Hanson: 256-5299

Addl. Drafters:

Subject: Occupational Reg. - misc

Extra Copies: PJH

Submit via email: YES

Requester's email: Rep.Foti@legis.state.wi.us

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See Attached

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/?	mkunkel	Pl q's 3/12 03		PO			
			3-12-3				

FE Sent For:

<END>

Rep Foti

Tom Harris

256-5299

Proposed Changes In Funeral Establishment Regulations

- Memorial Centers must be included in new definition to insure that they are licensed. *Intent is to stop the growth of unregulated funeral establishments.*
- Modify definition of "funeral establishment" in Chapter 445.01(6) to include: a permanent building. The building shall not have more than one other retail tenant whose ~~purpose~~, product or services are not related to funeral service. *Intent is to prohibit strip mall of mobile home funeral homes.*
- Funeral homes must have capability to seat a minimum of 75 in a place of assembly. *Intent is to prohibit warehouse and industrial park funeral homes.*
- Add definition of Memorial Service to FD 2.02 (with or without body present). *Intent is to insure that they are regulated.*
- One preparation room would be required per ownership entity. *Intent here is to change current law requiring a prep room in every funeral home to reflect the consolidation of preparation work into one facility for multi-location operations.*
- A funeral home without a preparation room must be owned and licensed by a funeral home containing a preparation room. *Intent is to insure that funeral homes without prep rooms cannot operate without a connection to an establishment with a prep room.*
- An individual would be allowed to operate up to three funeral establishments with a single funeral director license. *Intent is to relax current regulation requiring a separate funeral director license to be hung at each location.*
- Require funeral homes, pre-arrangement centers and crematories to include the name and address of establishment in all newspaper ads, direct mail pieces and telephone listings. *Intent is to strengthen FD-205 by prohibiting ghost ads with misleading information.*
- Include language that prohibits a nursing home, church, hospice or hospital from owning/operating a funeral home or acting as one. *Intent is to protect the public by avoiding conflicts of interest and property tax issues for municipalities.*
- All embalming as defined in HFS 136, must be performed by a licensed funeral director in a licensed funeral home. *Intent is to require trade services to work through and in licensed funeral homes.*

D-NOTE

gs

1361/PI

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

By ~~Donna~~
3/12
NOIN

TODAY
NOON

RM
NOT
RUN

SAV

gen cat

1 AN ACT *to renumber and amend* 445.105 (1) and 445.105 (2); *to consolidate,*
 2 *renumber and amend* 445.15 (1) and (1m); *to amend* 30.67 (6) (b), 157.067
 3 (1), 445.01 (6) and 445.04 (1); and *to create* 445.01 (6g), 445.01 (6r), 445.01 (9),
 4 445.01 (10), 445.105 (1) (b), 445.105 (2) (a) and (b), 445.105 (2m) and 445.105
 5 (6) of the statutes; **relating to:** regulating funeral establishments, and
 6 providing a penalty. *and crematory advertising*

Analysis by the Legislative Reference Bureau

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

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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

← Fix

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

1 **SECTION 1.** 30.67 (6) (b) of the statutes is amended to read:

2 30.67 (6) (b) In cases of death involving a boat in which the person died within
3 6 hours of the time of the accident, a blood specimen of at least 10 cc. shall be
4 withdrawn from the body of the decedent within 12 hours after his or her death, by
5 the coroner or medical examiner or by a physician so designated by the coroner or
6 medical examiner or by a qualified person at the direction of the physician. All
7 ~~morticians~~ funeral directors, as defined in s. 445.01 (5), shall obtain a release from
8 the coroner or medical examiner prior to proceeding with embalming any body
9 coming under the scope of this section. The blood so drawn shall be forwarded to a
10 laboratory approved by the state health officer for analysis of the alcoholic content
11 of the blood specimen. The coroner or medical examiner causing the blood to be
12 withdrawn shall be notified of the results of each analysis made and shall forward
13 the results of each analysis to the state health officer. The state health officer shall
14 keep a record of all examinations to be used for statistical purposes only. The
15 cumulative results of the examinations, without identifying the individuals
16 involved, shall be disseminated and made public by the state health officer. The
17 department shall reimburse coroners and medical examiners for the costs incurred
18 in submitting reports and taking blood specimens and laboratories for the costs
19 incurred in analyzing blood specimens under this section.

 ****NOTE: The reference to “mortician” is deleted, which is otherwise not used in
the statutes. (The only other reference is in s. 445.01 (5) (c), stats.)

20 **SECTION 2.** 157.067 (1) of the statutes is amended to read:

21 157.067 (1) In this section, “funeral establishment” has the meaning given in
22 s. 445.01 (6), except that “funeral establishment” does not include a building or part
23 of a building that is erected under s. 157.11 (1) for holding or conducting funeral

1 services if dead human bodies are not embalmed, cared for, or prepared for burial or
2 transportation, in the building.

***NOTE: The above change is necessary based on the amendment of s. 445.01 (6),
below.

3 SECTION 3. 445.01 (6) of the statutes is amended to read:

4 445.01 (6) “Funeral establishment” means any building or part of a building
5 used and held out to the public as being used in the care and preparation for burial
6 or transportation of dead human bodies or for holding or conducting of funeral
7 services. “Funeral establishment” does not include a building or part of a building
8 that is erected under s. 157.11 (1) for holding or conducting funeral services if dead
9 human bodies are not cared for or prepared for burial or transportation in the
10 building. A funeral establishment must contain a preparation room equipped with
11 tile, cement or composition floor, necessary drainage and ventilation and contain
12 necessary instruments and supplies for the preparation and embalming of dead
13 human bodies for burial, transportation or other disposition as a preparation center,
14 memorial center, or both.

***NOTE: The deleted requirements regarding a preparation room are included
below in proposed s. 445.105 (2) (intro.), which refers to a “preparation center.”

***NOTE: The deleted exemption for buildings erected under s. 157.11 (1) is
included below in proposed s. 445.105 (1) (a).

15 SECTION 4. 445.01 (6g) of the statutes is created to read:

16 445.01 (6g) “Funeral services” means ceremonies held in conjunction with the
17 disposition of the dead, including visitation, religious rites, memorials, and
18 graveside services, whether or not a dead human body is present during the
19 ceremonies.

***NOTE: I am assuming that the above definition does not include embalming.
However, if embalming could be considered as part of a religious ceremony, you may want
to address this issue.

1 **SECTION 5.** 445.01 (6r) of the statutes is created to read:

2 445.01 (6r) “Memorial center” means any building or part of a building used
3 and held out to the public as being used for holding or conducting funeral services.

4 **SECTION 6.** 445.01 (9) of the statutes is created to read:

5 445.01 (9) “Preparation center” means any building or part of a building used
6 and held out to the public as being used for embalming, caring for, or preparing for
7 burial or transportation dead human bodies.

8 **SECTION 7.** 445.01 (10) of the statutes is created to read:

9 445.01 (10) “Religious organization” means a church, synagogue, or mosque,
10 or any organization, whether or not organized under ch. 187, that operates under a
11 creed.

 ***NOTE: The above language is borrowed from s. 341.14 (6r) (fm) 1. c., stats.

12 **SECTION 8.** 445.04 (1) of the statutes is amended to read:

13 445.04 (1) The business of a funeral director must be conducted in a funeral
14 establishment ~~equipped for the care and preparation for burial or transportation of~~
15 ~~dead human bodies. What shall be deemed “necessary equipment” shall be defined~~
16 ~~in the rules that, except as provided in s. 445.105 (2), has a preparation center.~~

 ***NOTE: The deleted requirement regarding necessary equipment is included
below in proposed s. 445.105 (2m) (c).

17 **SECTION 9.** 445.105 (1) of the statutes is renumbered 445.105 (1) (intro.) and
18 amended to read:

19 445.105 (1) (intro.) No person ~~shall~~ may conduct, maintain, manage, or operate
20 a funeral establishment unless a permit for each such funeral establishment has
21 been issued by the examining board and is conspicuously displayed in each such
22 funeral establishment. ~~In case of funeral, except that no permit is required for any~~
23 of the following:

1 (a) Funeral services conducted or held in any building or part of a building that
2 is erected under s. 157.11 (1), private residence, church, or lodge hall, no permit shall
3 be required if dead human bodies are not embalmed, cared for, or prepared for burial
4 or transportation, in the building, private residence, or lodge hall.

5 **SECTION 10.** 445.105 (1) (b) of the statutes is created to read:

6 445.105 (1) (b) Funeral services conducted or held by a religious organization.

 ****NOTE: I assume you don't want to interfere with religious practices. Is the above
exception okay?

7 **SECTION 11.** 445.105 (2) of the statutes is renumbered 445.105 (2) (intro.) and
8 amended to read:

9 445.105 (2) (intro.) ~~No~~ The examining board may not issue a permit to operate
10 a funeral establishment shall be issued by the examining board unless each such the
11 requirements under sub. (2m) are satisfied and, except as follows, the funeral
12 establishment has a preparation center and has in charge, full time therein, a
13 licensed funeral director.;

14 **SECTION 12.** 445.105 (2) (a) and (b) of the statutes are created to read:

15 445.105 (2) (a) A licensed funeral director may be in charge of no more than 3
16 funeral establishments. A licensed funeral director may not be in charge of one or
17 more funeral establishments unless at least one of the funeral establishments has
18 a preparation center and no embalming takes place in a funeral establishment
19 without a preparation center.

20 (b) The operator of multiple funeral establishments may operate any of the
21 funeral establishments without a preparation center if at least one of the funeral
22 establishments has a preparation center and no embalming takes place in a funeral
23 establishment without a preparation center.

1 SECTION 13. 445.105 (2m) of the statutes is created to read:

2 445.105 (2m) The examining board may not issue a permit to operate a funeral
3 establishment unless all of the following are satisfied:

4 (a) The operator of the funeral establishment is not a religious organization or
5 an operator of a medical care institution, as defined in s. 610.70 (1) (e).

****NOTE: "Medical care institution" is broadly defined in s. 610.70 (1) (e), stats., as "a facility, as defined in s. 647.01 (4), or any hospital, nursing home, community-based residential facility, county home, county infirmary, county hospital, county mental health center, adult family home, assisted living facility, rural medical center, hospice or other place licensed, certified or approved by the department of health and family services under s. 49.70, 49.71, 49.72, 50.02, 50.03, 50.032, 50.033, 50.034, 50.35, 50.52, 50.90, 51.04, 51.08 or 51.09 or a facility under s. 45.365, 51.05, 51.06 or 252.10 or under ch. 233 or licensed or certified by a county department under s. 50.032 or 50.033." Do you want to exclude any of these facilities from the prohibition?

6 (b) If the funeral establishment has a memorial center, the memorial center has
7 a seating capacity of 75 or more persons.

8 (c) If the funeral establishment has a preparation center, the preparation
9 center is equipped with a tile, cement, or composition floor, has necessary drainage
10 and ventilation, and contains necessary equipment, instruments, and supplies for
11 the preparation and embalming of dead human bodies for burial, transportation, or
12 other disposition. The examining board shall promulgate rules specifying the
13 equipment, instruments, and supplies that are necessary for purposes of this
14 paragraph.

****NOTE: The above incorporates the requirements regarding a preparation room that are deleted by the bill from the definition of "funeral establishment" under current law.

15 (d) The building or structure in which the funeral establishment is located
16 contains no more than one other occupant that does not operate a funeral
17 establishment.

18 SECTION 14. ~~445.105 (2m)~~ of the statutes is created to read:

445.145
INSERT 6-17

(B) -7-

(BF)

445.145 Advertising.

crematory, or a

1 ~~445.105 (1)~~ The operator of a funeral establishment for which a permit is
 2 required under ~~s. 445.105 (1)~~ shall include the name and address of the funeral
 3 establishment in any advertisement for the funeral establishment by newspaper,
 4 periodical, telephone book listing, or direct mail. crematory or

***NOTE: What about advertisements by outdoor signs, radio, or television? Also, should direct mail include electronic mail solicitations?

5 SECTION 15. 445.15 (1) and (1m) of the statutes are consolidated, renumbered
6 445.15 (1) and amended to read:

7 445.15 (1) ~~Except as provided in sub. (1m), any~~ Any person violating any
 8 provision of this chapter or any rule of the department of health and family services
 9 and the examining board relating to its subject matter, shall be fined not less than
 10 \$50 ~~nor more than \$200, or \$5,000,~~ imprisoned not less than 30 days nor more than
 11 3 months. ~~(1m) A funeral director or operator of a funeral establishment who~~
 12 ~~violates s. 445.12 (3r) shall be fined not more than \$5,000 for each violation, or both.~~
 13 Each day that an insurance intermediary authorized by a funeral director or
 14 operator of a funeral establishment fails to meet the training requirements
 15 established by the examining board by rule under s. 445.125 (3m) (j) 1. a. constitutes
 16 a separate violation of s. 445.12 (3r) (b).

17 SECTION 16. Initial applicability.

18 (1) FUNERAL ESTABLISHMENT PERMITS. The treatment of sections 445.01 (6), (6g),
 19 (6r), (9), and (10), 445.04 (1), and 445.105 (2m) of the statutes, the renumbering and
 20 amendment of section 445.105 (1) and (2) of the statutes, and the creation of section
 21 445.105 (1) (b) and (2) (a) and (b) of the statutes first apply to permits issued on the
 22 effective date of this subsection.

***NOTE: Because the bill's effective date is delayed by about 6 months (see below), and because funeral establishment permits must be renewed by June 1, 2003, the new

145

permitting requirements will first apply to permits that must be renewed by June 1, 2005.
Is that okay?

1

(2) ADVERTISEMENTS. The treatment of section 445.15(1) of the statutes first applies to advertisements that are subject to contracts entered into, modified, or extended on the effective date of this subsection.

****NOTE: The above is necessary to address an impairment of contracts issue. For example, a person might enter into a contract before the bill's effective date for a listing in a telephone book that is published after the bill's effective date. Under the above provision, the bill does not apply to such a telephone listing.

(3) VIOLATIONS. The treatment of section 445.15 (1) and (1m) of the statutes first applies to violations occurring on the effective date of this subsection.

SECTION 17. Effective date.

(1) This act takes effect on the first day of the 7th month beginning after publication.

****NOTE: The delayed effective date is about 6 months after the publication date. Some delay is probably necessary to give people time to comply with the bill's new requirements. Is 6 months okay?

(END)

**2003-2004 DRAFTING INSERT
FROM THE
LEGISLATIVE REFERENCE BUREAU**

LRB-1361/P1ins
MDK:.....

1

INSERT 6-17:

2

(e) The building or structure in which the funeral establishment is located is

3

affixed to real property.



DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1360/P1dn
MDK:cjs:pg

March 11, 2003

1361/P1dn

Representative Foti

Senator Schultz:

Please review the ****NOTES included in the text of this preliminary draft. In addition, please note the following:

1. The instructions provide that embalming must be done in a funeral establishment that has a permit. I think this is already required under current law. A "funeral director" is defined under current law as a person who engages in embalming, and the business of a funeral director must be conducted in a funeral establishment that has a permit. Therefore, I'm not sure about your intent on this issue. The draft does refer to embalming to ensure that persons who are exempt under various provisions of the draft are not allowed to embalm.
2. The instructions refer to ownership, in addition to operation, of funeral establishments. However, current law generally applies to the operation of a funeral establishment, and generally does not refer to ownership. Therefore, I did not refer to ownership in the draft.
3. The instructions provide for creating new penalties and strengthening existing penalties, but do not provide any details. This draft increases the criminal fine for any violation of chapter 445 to not more than \$5,000. (Under current law, that amount applies only to violations of s. 445.12 (3r), stats.) Are there additional changes to the penalties that you want to make?

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

want to prohibit
mobile funeral
establishments.

This draft is identical to the companion draft requested by Senator Schultz, except for the following: 1) the advertising requirements apply to crematories, as well as funeral establishments, and are moved to proposed s. 445.145; and 2) proposed 445.105 (2m) (e) is included in this draft because, after preparing Senator Schultz's draft, I realized that you

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRB-1361/P1dn
MDK:cjs:rs

March 12, 2003

Representative Foti:

This draft is identical to the companion draft requested by Senator Schultz, except for the following: 1) the advertising requirements apply to crematories, as well as funeral establishments, and are moved to proposed s. 445.145; and 2) proposed 445.105 (2m) (e) is included in this draft because, after preparing Senator Schultz's draft, I realized that you want to prohibit mobile funeral establishments.

Please review the ****NOTES included in the text of this draft. In addition, please note the following:

1. The instructions provide that embalming must be done in a funeral establishment that has a permit. I think this is already required under current law. A "funeral director" is defined under current law as a person who engages in embalming, and the business of a funeral director must be conducted in a funeral establishment that has a permit. Therefore, I'm not sure about your intent on this issue. The draft does refer to embalming to ensure that persons who are exempt under various provisions of the draft are not allowed to embalm.
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Mark D. Kunkel
Senior Legislative Attorney
Phone: (608) 266-0131
E-mail: mark.kunkel@legis.state.wi.us

Memorandum

To: Drafting File: 03-1361
From: Mark Kunkel
Date: 04/30/2003
Re: Meeting on April 15

I met with various funeral directors, Erin Longmire, Pat Essie, Tom Hanson, and John O'Brien (aide to Sen. Schultz). I received instructions to make the following changes to the draft:

1. Review draft to make sure that embalming may only be done in a funeral establishment that has a "preparation center".
2. Keep the current law preneed insurance fine separate from the fine for other violations, but increase the fine for other violations so that it's no more than \$5,000.
3. Revise the advertising requirements so they broadly apply to a person that represents that he, she, or it sells funeral or cremation services. Don't refer to "crematorium", because some people who provide cremation services don't necessarily have a crematorium on premises. ("Funeral services", for this purpose, is broader than as otherwise defined in the draft.) In addition, for print and electronic mail advertising, require inclusion of an address and permit number. The address should probably be the address of the funeral establishment. In the case of a holder of multiple funeral establishment permits, the address and permit number of only one is required to be included. Also, in referring to email, don't talk about electronic transmissions, which could include other types of telecommunications (e.g., telephone)
4. Make sure that the same location may be used by people with different funeral establishment permits. For example, a person could contract with another person to do embalming at the other person's location, but both people would need separate permits.
5. Make sure that current "combo" law is not affected (i.e., the prohibition on owning both a cemetery and funeral establishment).
6. Do not affect current law exemption for "church" in s. 445.105 (1). In other words, use the current law exemption, rather than creating a new exemption for religious organizations.
7. Proposed s. 445.105 (2m) (d) should refer to "business" instead of "occupant".
8. Bill should apply to "new entrants" on effective date, but "grandfather" in current permit holders and licensees so they have until July 1, 2005 renewal date to comply.

PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION

1 **AN ACT** *to renumber and amend* 445.105 (1) and 445.105 (2); *to consolidate,*
2 *renumber and amend* 445.15 (1) and (1m); *to amend* 30.67 (6) (b), 157.067
3 (1), 445.01 (6) and 445.04 (1); and *to create* 445.01 (6g), 445.01 (6r), 445.01 (9),
4 445.01 (10), 445.105 (1) (b), 445.105 (2) (a) and (b), 445.105 (2m) and 445.145
5 of the statutes; **relating to:** regulating funeral establishments and crematory
6 advertising and providing a penalty.

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

Because this bill creates a new crime or revises a penalty for an existing crime, the Joint Review Committee on Criminal Penalties may be requested to prepare a report concerning the proposed penalty and the costs or savings that are likely to result if the bill is enacted.

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22 s. 445.01 (6), except that "funeral establishment" does not include a building or part
23 of a building that is erected under s. 157.11 (1) for holding or conducting funeral

*Don't affect crematorium - prohibit -
cen + fun. home -> can't own both*

1 services if dead human bodies are not embalmed, cared for, or prepared for burial or
2 transportation, in the building.

***NOTE: The above change is necessary based on the amendment of s. 445.01 (6),
below.

3 SECTION 3. 445.01 (6) of the statutes is amended to read:

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14 memorial center, or both.

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However, if embalming could be considered as part of a religious ceremony, you may want
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2 445.01 (6r) "Memorial center" means any building or part of a building used
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18 amended to read:

19 445.105 (1) (intro.) No person shall may conduct, maintain, manage, or operate
20 a funeral establishment unless a permit for each such funeral establishment has
21 been issued by the examining board and is conspicuously displayed in each such
22 funeral establishment. In case of funeral, except that no permit is required for any
23 of the following:

Steel

1 (a) Funeral services conducted or held in any building or part of a building that
2 is erected under s. 157.11 (1), private residence, church, or lodge hall, no permit shall
3 be required if dead human bodies are not embalmed, cared for, or prepared for burial
4 or transportation, in the building, private residence, or lodge hall.

5 **SECTION 10.** 445.105 (1) (b) of the statutes is created to read:

6 445.105 (1) (b) Funeral services conducted or held by a religious organization.

 ****NOTE: I assume you don't want to interfere with religious practices. Is the above exception okay?

7 **SECTION 11.** 445.105 (2) of the statutes is renumbered 445.105 (2) (intro.) and
8 amended to read:

9 445.105 (2) (intro.) ~~No~~ The examining board may not issue a permit to operate
10 a funeral establishment shall be issued by the examining board unless each such the
11 requirements under sub. (2m) are satisfied and, except as follows, the funeral
12 establishment has a preparation center and has in charge, full time therein, a
13 licensed funeral director.;

14 **SECTION 12.** 445.105 (2) (a) and (b) of the statutes are created to read:

15 445.105 (2) (a) A licensed funeral director may be in charge of no more than 3
16 funeral establishments. A licensed funeral director may not be in charge of one or
17 more funeral establishments unless at least one of the funeral establishments has
18 a preparation center and no embalming takes place in a funeral establishment
19 without a preparation center.

20 (b) The operator of multiple funeral establishments may operate any of the
21 funeral establishments without a preparation center if at least one of the funeral
22 establishments has a preparation center and no embalming takes place in a funeral
23 establishment without a preparation center.

1 SECTION 13. 445.105 (2m) of the statutes is created to read:

2 445.105 (2m) The examining board may not issue a permit to operate a funeral
3 establishment unless all of the following are satisfied:

4 (a) The operator of the funeral establishment is not a religious organization or
5 an operator of a medical care institution, as defined in s. 610.70 (1) (e).

****NOTE: "Medical care institution" is broadly defined in s. 610.70 (1) (e), stats.,
as "a facility, as defined in s. 647.01 (4), or any hospital, nursing home, community-based
residential facility, county home, county infirmary, county hospital, county mental health
center, adult family home, assisted living facility, rural medical center, hospice or other
place licensed, certified or approved by the department of health and family services
under s. 49.70, 49.71, 49.72, 50.02, 50.03, 50.032, 50.033, 50.034, 50.35, 50.52, 50.90,
51.04, 51.08 or 51.09 or a facility under s. 45.365, 51.05, 51.06 or 252.10 or under ch. 233
or licensed or certified by a county department under s. 50.032 or 50.033." Do you want
to exclude any of these facilities from the prohibition?

6 (b) If the funeral establishment has a memorial center, the memorial center has
7 a seating capacity of 75 or more persons.

8 (c) If the funeral establishment has a preparation center, the preparation
9 center is equipped with a tile, cement, or composition floor, has necessary drainage
10 and ventilation, and contains necessary equipment, instruments, and supplies for
11 the preparation and embalming of dead human bodies for burial, transportation, or
12 other disposition. The examining board shall promulgate rules specifying the
13 equipment, instruments, and supplies that are necessary for purposes of this
14 paragraph.

****NOTE: The above incorporates the requirements regarding a preparation room
that are deleted by the bill from the definition of "funeral establishment" under current
law.

15 (d) The building or structure in which the funeral establishment is located
16 contains no more than one other occupant that does not operate a funeral
17 establishment.

business

18 (e) The building or structure in which the funeral establishment is located is
19 affixed to real property.

Services

-7-
any person who advertises or provides funeral or crematory services

advertisers to provide services on a periodic related to general

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SECTION 14. 445.145 of the statutes is created to read:

445.145 Advertising. The operator of a crematory, or a funeral establishment

for which a permit is required under s. 445.105 (1), shall include the name and address of the crematory or funeral establishment in any advertisement for the crematory or funeral establishment by newspaper, periodical, telephone book listing, or direct mail.

+ address permit #

***NOTE: What about advertisements by outdoor signs, radio, or television? Also, should direct mail include electronic mail solicitations?

YES

NO

SECTION 15. 445.15 (1) and (1m) of the statutes are consolidated, renumbered 445.15 (1) and amended to read:

445.15 (1) Except as provided in sub. (1m), any Any person violating any provision of this chapter or any rule of the department of health and family services and the examining board relating to its subject matter, shall be fined not less than \$50 nor more than \$200, or \$5,000, imprisoned not less than 30 days nor more than 3 months. (1m) A funeral director or operator of a funeral establishment who violates s. 445.12 (3r) shall be fined not more than \$5,000 for each violation, or both. Each day that an insurance intermediary authorized by a funeral director or operator of a funeral establishment fails to meet the training requirements established by the examining board by rule under s. 445.125 (3m) (j) 1. a. constitutes a separate violation of s. 445.12 (3r) (b).

SECTION 16. Initial applicability.

(1) FUNERAL ESTABLISHMENT PERMITS. The treatment of sections 445.01 (6), (6g), (6r), (9), and (10), 445.04 (1), and 445.105 (2m) of the statutes, the renumbering and amendment of section 445.105 (1) and (2) of the statutes, and the creation of section

1 445.105 (1) (b) and (2) (a) and (b) of the statutes first apply to permits issued on the
2 effective date of this subsection.

****NOTE: Because the bill's effective date is delayed by about 6 months (see below), and because funeral establishment permits must be renewed by June 1, 2003, the new permitting requirements will first apply to permits that must be renewed by June 1, 2005. Is that okay?

3 (2) ADVERTISEMENTS. The treatment of section 445.145 of the statutes first
4 applies to advertisements that are subject to contracts entered into, modified, or
5 extended on the effective date of this subsection.

****NOTE: The above is necessary to address an impairment of contracts issue. For example, a person might enter into a contract before the bill's effective date for a listing in a telephone book that is published after the bill's effective date. Under the above provision, the bill does not apply to such a telephone listing.

6 (3) VIOLATIONS. The treatment of section 445.15 (1) and (1m) of the statutes first
7 applies to violations occurring on the effective date of this subsection.

8 **SECTION 17. Effective date.**

9 (1) This act takes effect on the first day of the 7th month beginning after
10 publication.

****NOTE: The delayed effective date is about 6 months after the publication date. Some delay is probably necessary to give people time to comply with the bill's new requirements. Is 6 months okay?

11 (END)

Grandfather all the permit holders until June 1, 2005

but new apply starts next week right away