

2005 ASSEMBLY BILL 485

1 **AN ACT** *to repeal* 445.105 (2); *to renumber and amend* 445.01 (5) (a); *to amend*
2 30.67 (6) (b), 69.18 (1) (a) 3., 157.067 (1), 252.15 (5) (a) 7., 445.01 (6), 445.04 (1),
3 445.095 (2) (c), 445.105 (1) and 445.15 (1); and *to create* 445.01 (2m), 445.01
4 (6g), 445.01 (9), 445.105 (2m) and 445.145 of the statutes; **relating to:**
5 regulating funeral directors and funeral establishments, regulating cremation
6 and funeral advertising, and providing a penalty.

Analysis by the Legislative Reference Bureau

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

7 **SECTION 1.** 30.67 (6) (b) of the statutes is amended to read:
8 30.67 (6) (b) In cases of death involving a boat in which the person died within
9 6 hours of the time of the accident, a blood specimen of at least 10 cc. shall be
10 withdrawn from the body of the decedent within 12 hours after his or her death, by

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8 withdrawn shall be notified of the results of each analysis made and shall forward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

16 **SECTION 2.** 69.18 (1) (a) 3. of the statutes is amended to read:

17 69.18 **(1)** (a) 3. A person acting under s. 157.02 or 445.16 (1).

18 **SECTION 3.** 157.067 (1) of the statutes is amended to read:

19 157.067 **(1)** In this section, “funeral establishment” has the meaning given in
20 s. 445.01 (6), except that “funeral establishment” does not include a building or part
21 of a building that is erected under s. 157.11 (1) for holding or conducting funeral
22 services if dead human bodies are not embalmed, cared for, or prepared for burial or
23 transportation, in the building.

24 **SECTION 4.** 252.15 (5) (a) 7. of the statutes is amended to read:

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1 252.15 (5) (a) 7. To a funeral director, as defined under s. 445.01 (5) (a) 1. or 2.
2 or (c) or to other persons who prepare the body of a decedent for burial or other
3 disposition or to a person who performs an autopsy or assists in performing an
4 autopsy.

5 **SECTION 5.** 445.01 (2m) of the statutes is created to read:

6 445.01 (2m) “Compensation” means direct or indirect payment, including the
7 expectation of payment whether or not actually received.

8 **SECTION 6.** 445.01 (5) (a) of the statutes is renumbered 445.01 (5) (a) (intro.)
9 and amended to read:

10 445.01 (5) (a) (intro.) A person engaged in or conducting, or holding himself or
11 herself out, in whole or in part, as being engaged in embalming any of the following:

12 1. Embalming or otherwise preparing for the burial or disposal, ~~or directing of~~
13 dead human bodies.

14 2. Directing and supervising the burial or disposal, of dead human bodies.

15 **SECTION 7.** 445.01 (6) of the statutes is amended to read:

16 445.01 (6) “Funeral establishment” means any building or part of a building
17 used and held out to the public as being used ~~in the care and preparation for~~ caring
18 or preparing for the burial or transportation of dead human bodies or for holding or
19 conducting of funeral services. ~~“Funeral establishment” does not include a building~~
20 ~~or part of a building that is erected under s. 157.11 (1) for holding or conducting~~
21 ~~funeral services if dead human bodies are not cared for or prepared for burial or~~
22 ~~transportation in the building. A funeral establishment must contain a preparation~~
23 ~~room equipped with tile, cement or composition floor, necessary drainage and~~
24 ~~ventilation and contain necessary instruments and supplies for the preparation and~~
25 ~~embalming of dead human bodies for burial, transportation or other disposition.~~

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

2 445.01 (9) “Preparation room” means any building or part of a building used
3 for embalming, caring for, or preparing for burial or transportation dead human
4 bodies.

5 **SECTION 10.** 445.04 (1) of the statutes is amended to read:

6 445.04 (1) ~~The Except for conducting funeral services, the business of a funeral~~
7 ~~director must be conducted in a funeral establishment equipped for the care and~~
8 ~~preparation for burial or transportation of dead human bodies. What shall be~~
9 ~~deemed “necessary equipment” shall be defined in the rules that has been issued a~~
10 ~~permit by the examining board.~~

11 **SECTION 11.** 445.095 (2) (c) of the statutes is amended to read:

12 445.095 (2) (c) Only one funeral director apprenticeship shall be recognized by
13 the examining board at any one funeral establishment in a current year that has had
14 less than 150 funeral services or prepared less than 150 bodies for burial or shipment
15 during the preceding year.

16 **SECTION 12.** 445.105 (1) of the statutes is amended to read:

17 445.105 (1) No person shall may conduct, maintain, manage, or operate a any
18 funeral establishment unless the examining board has issued the person a permit
19 for each such the funeral establishment has been issued by the examining board and
20 the permit is conspicuously displayed in such the funeral establishment. In case of,
21 except that a permit is not required for funeral services held in any building or part
22 of a building that is erected under s. 157.11 (1), private residence, church, or lodge
23 hall, no permit shall be required if dead human bodies are not embalmed, cared for,
24 or prepared for burial or transportation, in the building, residence, church, or lodge
25 hall.

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1 **SECTION 13.** 445.105 (2) of the statutes is repealed.

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

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

5 (a) The building or structure in which the funeral establishment is located is
6 affixed to real property.

7 (b) A licensed funeral director is in charge of the funeral establishment and the
8 funeral director is also in charge of no more than 2 other funeral establishments and
9 at least one of the funeral establishments of which the funeral director is in charge
10 has a preparation room.

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

19 (d) The operator of the funeral establishment is not an operator of a medical
20 care institution, as defined in s. 610.70 (1) (e), or a church, synagogue, or mosque, or
21 any organization, whether or not organized under ch. 187, that operates under a
22 creed, as defined in s. 111.32 (3m).

23 **SECTION 15.** 445.145 of the statutes is created to read:

24 **445.145 Printed advertising.** A person may not, in any advertisement by
25 newspaper, periodical, Internet web page, telephone book listing, direct mail, or

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1 electronic mail solicitation, represent that the person conducts the business of a
2 funeral director or provides any funeral or cremation service, unless the
3 advertisement includes the address of one funeral establishment or place of business
4 at which the person conducts such business or provides such services.

5 **SECTION 16.** 445.15 (1) of the statutes is amended to read:

6 445.15 (1) Except as provided in sub. (1m), any person violating any provision
7 of this chapter or any rule of the department of health and family services and the
8 examining board relating to its subject matter, shall be fined not less than \$50 nor
9 more than \$200, ~~or \$5,000~~, imprisoned not less than 30 days nor more than 3 months,
10 or both.

11 **SECTION 17. Initial applicability.**

12 (1) ADVERTISEMENTS. The treatment of section 445.145 of the statutes first
13 applies to advertisements that are subject to contracts entered into, modified, or
14 extended on the effective date of this subsection.

15 (2) VIOLATIONS. The treatment of section 445.15 (1) of the statutes first applies
16 to violations occurring on the effective date of this subsection.

17 **SECTION 18. Effective date.**

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

20 (END)