

2005 Assembly Bill 485

Date of enactment: **April 5, 2006**
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2005 WISCONSIN ACT 266

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

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

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

30.67 (6) (b) In cases of death involving a boat in which the person died within 6 hours of the time of the accident, a blood specimen of at least 10 cc. shall be withdrawn from the body of the decedent within 12 hours after his or her death, by the coroner or medical examiner or by a physician so designated by the coroner or medical examiner or by a qualified person at the direction of the physician. All morticians, funeral directors, as defined in s. 445.01 (5), shall obtain a release from the coroner or medical examiner prior to proceeding with embalming any body coming under the scope of this section. The blood so drawn shall be forwarded to a laboratory approved by the state health officer for analysis of the alcoholic content of the blood specimen. The coroner or medical examiner causing the blood to be withdrawn shall be notified of the results of each analysis made and shall forward the results of each analysis to the state health officer. The state health officer shall keep a record of all examinations to be used for statistical purposes only. The cumulative results of the examinations, without identifying the individuals involved, shall be disse-

minated and made public by the state health officer. The department shall reimburse coroners and medical examiners for the costs incurred in submitting reports and taking blood specimens and laboratories for the costs incurred in analyzing blood specimens under this section.

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

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

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

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

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

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

* Section 991.11, WISCONSIN STATUTES 2003–04 : Effective date of acts. “Every act and every portion of an act enacted by the legislature over the governor’s partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated” by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

445.145 Printed advertising. A person may not, in any advertisement by newspaper, periodical, Internet web page, telephone book listing, direct mail, or electronic mail solicitation, represent that the person conducts the business of a funeral director or provides any funeral or cremation service, unless the advertisement includes the address of one funeral establishment or place of business at which the person conducts such business or provides such services.

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

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445.15 (1) Except as provided in sub. (1m), 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, or both.

SECTION 17. Initial applicability.

(1) ADVERTISEMENTS. The treatment of section

445.145 of the statutes first applies to advertisements that are subject to contracts entered into, modified, or extended on the effective date of this subsection.

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

SECTION 18. Effective date.

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

