

HOUSE BILL 75

By Hardaway

AN ACT to amend Tennessee Code Annotated, Title 62, Chapter 5, relative to funeral directors and embalmers.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 62, Chapter 5, Part 3, is amended by adding the following language as a new, appropriately designated section:

62-5-318.

(a) As used in this section:

(1) "Normal operating hours" means the hours the business office of a funeral establishment is open and also includes any additional hours the funeral establishment is open for a person to make arrangements for a funeral service or for viewing hours of a dead human body or the remains of a dead human body; and

(2) "Person legally entitled to the custody of the body" means the person entering into a contract with the funeral establishment for the funeral service.

(b)

(1) A funeral director or a person authorized by the funeral director to act for the funeral director shall surrender the custody of a dead human body which is at the funeral establishment to the person legally entitled to the custody of the body within four (4) hours of the time an express written order of such person is received at the funeral establishment during the normal operating hours of the funeral establishment.

(2) The order shall be deemed to be received at the funeral establishment at the time it is delivered to the funeral establishment. Such

delivery may be by personal delivery, certified mail, any delivery service that provides proof of delivery or via electronic mail sent to the funeral establishment.

(3) If a funeral director or a person authorized by the funeral director to act for the funeral director refuses to comply with subdivision (b)(1), upon the filing of a complaint with the board of funeral directors and embalmers or on its own initiative, the board shall provide the opportunity for a hearing, and if a hearing is requested, conduct a hearing in accordance with the Uniform Administrative Procedures Act, compiled in title 4, chapter 5 to determine whether a violation of subdivision (b)(1) has occurred. If the board finds that a violation of subdivision (b)(1) has occurred, the board shall suspend the license of the funeral director and the funeral establishment for a minimum of thirty (30) days.

(c) The board shall inform each of its licensees of the provisions of this act in the manner deemed appropriate by the board.

(d)

(1) In addition to, and at the same time a funeral director provides the disclosure required pursuant to the 16 C.F.R. § 453 relative to unfair or deceptive acts or practices, the funeral director shall also provide the following written disclosure to the person entering into a contract with the funeral establishment for the funeral service. Such written disclosure shall be in bold typeface conspicuously larger than the information in the disclosure required by federal law:

It is a violation of state law under Tennessee Code Annotated, Sections 62-5-318(b) and 62-5-317(a)(7), (b)(9) and (11) for this establishment to refuse to surrender the custody of a dead human body

upon the express order of the person legally entitled to the custody of the body.

If you believe I have or any person working for or associated with this funeral establishment has violated any of these provisions, you are entitled to call the local police or sheriff [here insert the proper telephone numbers] and report this violation.

In addition, you are entitled to report any suspected violation to the state board of funeral directors and embalmers at the department of commerce and insurance.

(2) The funeral director shall discuss this disclosure with the person entering into a contract with the funeral establishment for the funeral service and obtain such person's signature indicating that the person understands such person's lawful rights.

SECTION 2. Tennessee Code Annotated, Section 62-5-601(d), is amended by deleting the language "Any licensee" and by substituting instead the language "Except as provided in subsection (h), any licensee".

SECTION 3. Tennessee Code Annotated, Section 62-5-601, is amended by adding the following language as a new subsection (h):

(h) If disciplinary action is taken against a licensee by the board for violating Section 1 of this act or for any other violation of this chapter and the licensee is exempt from the continuing education requirements pursuant to subsection (d), the licensee shall not be permitted to claim such exemption for the year in which such action is taken or thereafter.

SECTION 4. For purposes of providing information to its licensees, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, including enforcement of this act, this act shall take effect July 1, 2011, the public welfare requiring it.