

CHAPTER 93

[Engrossed Senate Bill No. 2286]

FUNERAL ESTABLISHMENTS, DIRECTORS, AND EMBALMERS

AN ACT Relating to funerals; amending section 1, chapter 108, Laws of 1937 as amended by section 1, chapter 107, Laws of 1965 ex. sess. and RCW 18.39.010; amending section 11, chapter 108, Laws of 1937 and RCW 18.39.180; and adding new sections to chapter 18.39 RCW.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 1, chapter 108, Laws of 1937 as amended by section 1, chapter 107, Laws of 1965 ex. sess. and RCW 18.39.010 are each amended to read as follows:

The term "funeral director" as used herein is a person engaged in the profession or business of conducting funerals and supervising or directing the burial and disposal of dead human bodies.

The term "embalmer" as used herein is a person engaged in the profession or business of disinfecting, preserving or preparing for disposal or transportation dead human bodies.

A "two-year college course" as used herein means the completion of sixty semester hours or ninety quarter hours of collegiate credit from a college or university approved by the director ~~((of licenses))~~ and the state ~~((examining committee))~~ board of funeral directors and embalmers.

"Funeral establishment" means a place of business licensed in accordance with section 3 of this 1977 amendatory act, conducted at a specific street address or location, and devoted to the care and preparation for burial or disposal of dead human bodies and includes all areas of such business premises and all tools, instruments, and supplies used in preparation and embalming of dead human bodies for burial or disposal.

"Director" means the director of motor vehicles.

"Board" means the state board of funeral directors and embalmers created pursuant to section 8 of this 1977 amendatory act.

Words used in this chapter importing the singular may be applied to the plural of the person or thing, words importing the plural may be applied to the singular, and words importing the masculine gender may be applied to the female.

Sec. 2. Section 11, chapter 108, Laws of 1937 and RCW 18.39.180 are each amended to read as follows:

For the purpose of carrying out the provisions of this chapter the director of ~~((licenses and state examining committee))~~ motor vehicles in consultation with the state board of funeral directors and embalmers shall have power and it shall be their duty to adopt, promulgate and enforce reasonable rules and regulations. Said director ~~((of licenses))~~ shall have the power to suspend or revoke any license, after proper hearing and notice to the licensee, upon such licensee being found guilty of any of the following acts or omissions:

- (1) Conviction of a crime involving moral turpitude;
- (2) Unprofessional conduct which is hereby defined to include:
 - (a) Misrepresentation or fraud in the conduct of the business or the profession of a funeral director or embalmer;

- (b) False or misleading advertising as a funeral director or embalmer;
- (c) Solicitation of human dead bodies by the licensee, his agents, assistants or employees, whether such solicitation occurs after death or while death is impending: PROVIDED, This chapter shall not be deemed to prohibit general advertising or the sale of pre-need funeral plans;
- (d) Employment by the licensee of persons known as "cappers" or "steerers" or "solicitors" or other such persons to obtain funeral directing or embalming business;
- (e) Employment directly or indirectly of any apprentice, agent, assistant, embalmer, employee, or other person, on part or full time, or on commission, for the purpose of calling upon individuals or institutions by whose influence dead human bodies may be turned over to a particular funeral director or embalmer;
- (f) The buying of business by the licensee, his agents, assistants or employees, or the direct or indirect payment or offer of payment of a commission by the licensee, his agents, assistants or employees, for the purpose of securing business;
- (g) Gross immorality;
- (h) Aiding or abetting an unlicensed person to practice funeral directing or embalming;
- (i) Solicitation or acceptance by a licensee of any commission or bonus or rebate in consideration of recommending or causing a dead human body to be disposed of in any crematory, mausoleum or cemetery;
- (j) Using any casket or part of a casket which has previously been used as a receptacle for, or in connection with, the burial or other disposition of, a dead human body, without the written consent of next of kin;
- (k) Violation of any of the provisions of this chapter or the rules and regulations in support thereof;
- (l) Violation of any state law or municipal or county ordinance or regulation affecting the handling, custody, care or transportation of dead human bodies;
- (m) Fraud or misrepresentation in obtaining a license;
- (n) Refusing to promptly surrender the custody of a dead human body, upon the express order of the person lawfully entitled to the custody thereof;
- (o) For the selling or offering for sale of shares, certificates or an interest in the business of any funeral director or embalmer or in any corporation owning or conducting an undertaking or embalming establishment, under promise of or purporting to give to the purchasers thereof a right to the services of such funeral director, embalmer or corporation at a charge or cost less than that offered or given to the public at large.

NEW SECTION. Sec. 3. The director shall issue a funeral establishment license to any person, partnership, association, corporation, or other organization to operate a funeral establishment, at specific locations only, which has met the following requirements:

- (1) The applicant has designated the name under which the funeral establishment will operate and has designated locations for which the general establishment license is to be issued;
- (2) The applicant is licensed in this state as a funeral director and as an embalmer, or employs at least one person with both such qualifications or one licensed

funeral director and one embalmer who will be in service at each designated location;

(3) The applicant has filed an application with the director as required by this chapter and paid the required filing fee therefor as fixed by the director pursuant to RCW 43.24.085.

The director shall make the determination of qualifications of all applicants within a reasonable time after the filing of an application with the director. No funeral establishment license shall be transferable, but an applicant may make application for more than one funeral establishment license so long as all of the requirements are met for each license.

NEW SECTION. Sec. 4. (1) In the event a licensed funeral establishment ceases to have a licensed funeral director and embalmer in its employ at its place of business, its license shall be canceled immediately by the director, except as provided in subsection (2) of this section.

(2) If a licensed funeral establishment constitutes any part of the assets of an estate of a deceased person upon whom such license was dependent because the deceased was a licensed funeral director, then the legal representative of the estate shall be entitled to appoint someone other than a licensed funeral director to act in the capacity of a funeral director and shall be entitled to continue to operate the licensed funeral establishment under the existing license or renewals thereof for a period not to exceed two years without the necessity of employing a licensed funeral director in addition to the required licensed embalmer.

NEW SECTION. Sec. 5. The director, in addition to other powers and duties, shall have the following powers and duties under this chapter:

(1) To determine the qualifications of applicants for all licenses under this chapter;

(2) To issue all licenses provided for under the provisions of this chapter;

(3) To annually renew licenses under this chapter;

(4) To collect all fees prescribed and required under this chapter; and

(5) To keep general books of record of all official acts, proceedings, and transactions of the department while acting under this chapter.

NEW SECTION. Sec. 6. (1) The director may initiate and conduct investigations as may be reasonably necessary to establish the existence of any alleged violations of or noncompliance with the provisions of this chapter or any rules and regulations issued hereunder. For the purpose of any investigation or proceeding under this chapter, the director or any officer designated by him may administer oaths and affirmations, subpoena witnesses, compel their attendance, take evidence, and require the production of any books, papers, correspondence, memoranda, agreements, or other documents or records which the director deems relevant or material to the inquiry.

(2) If any individual fails to obey a subpoena or obeys a subpoena but refuses to give evidence, any court of competent jurisdiction, upon application by the director, may issue to that person an order requiring him to appear before the court, to show cause why he should not be compelled to obey the subpoena and give evidence material to the matter under investigation. The failure to obey an order of the court may be punishable as contempt.

NEW SECTION. Sec. 7. The director may refer such evidence as may be available to him concerning violations of this chapter or of any rule or regulation adopted hereunder to the attorney general or the prosecuting attorney of the county wherein the alleged violation arose, who may, in their discretion, with or without such a reference, in addition to any other action they might commence, bring an action in the name of the state against any person to restrain and prevent the doing of any act or practice prohibited by this chapter: **PROVIDED,** That this chapter shall be considered in conjunction with chapters 9.04 and 19.86 RCW, as now or hereafter amended, and the powers and duties of the attorney general and the prosecuting attorney as they may appear in the aforementioned chapters, shall apply against all persons subject to this chapter.

NEW SECTION. Sec. 8. There is hereby established a state board of funeral directors and embalmers to be composed of five members appointed by the governor in accordance with this section, one of whom shall be a public member. The three members of the state examining committee for funeral directors and embalmers, which was created pursuant to RCW 43.24.060, as of the effective date of this 1977 amendatory act are hereby appointed as members of the board to serve for initial terms. The governor shall appoint two additional members of the board. Each professional member of the board shall be licensed in this state as a funeral director and embalmer and a resident of the state of Washington for a period of at least five years next preceding appointment, during which time such member shall have been continuously engaged in the practice as a funeral director or embalmer as defined in this chapter. No person shall be eligible for appointment to the board of funeral directors and embalmers who is financially interested, directly or indirectly, in any embalming college, wholesale funeral supply business, or casket manufacturing business.

All members of the board of funeral directors and embalmers shall be appointed to serve for a term of five years, to expire on July 1 of the year of termination of their term, and until their successors have been appointed and qualified: **PROVIDED,** That the governor is granted the power to fix the terms of office of the members of the board first appointed so that the term of office of not more than one member of the board shall terminate in any one year. In case of a vacancy occurring on the board, the governor shall appoint a qualified member for the remainder of the unexpired term of the vacant office. Any member of the board of funeral directors and embalmers who fails to properly discharge the duties of a member may be removed by the governor.

The board shall meet once annually to elect a chairman, vice chairman, and secretary and take official board action on pending matters by majority vote of all the members of the board of funeral directors and embalmers and at other times when called by the director, the chairman, or a majority of the members. A majority of the members of said board shall at all times constitute a quorum.

NEW SECTION. Sec. 9. Each member of the board of funeral directors and embalmers shall receive compensation of twenty-five dollars for each board meeting attended, together with travel expenses in connection with board duties in accordance with RCW 43.03.050 and 43.03.060.

The state board of funeral directors and embalmers shall have the following duties and responsibilities:

- (1) To be responsible for the preparation, conducting, and grading of examinations of applicants for funeral director and embalmer licenses;
- (2) To certify to the director the results of examinations of applicants and certify the applicant as having "passed" or "failed";
- (3) To make findings and recommendations to the director on any and all matters relating to the enforcement of the provisions of this chapter; and
- (4) To perform all other duties and responsibilities under this chapter, the laws of the state of Washington, and the rules and regulations promulgated in support thereof.

NEW SECTION. Sec. 10. The board of funeral directors and embalmers shall be responsible for determining the nature, type, and extent of examinations to be taken by applicants for a funeral director or embalmer license. However, such examinations for embalmers shall include generally the following subjects: Anatomy, chemistry, restorative art, physiology, pathology, sanitary science, and the care, disinfection, preservation, transportation, and burial, or other final disposition, of dead human bodies. The examination for funeral director shall generally include: Psychology, sanitary science, the care and transportation of dead human bodies, and operational management of funeral establishments. Both examinations shall include generally the subject of this chapter and of the law of the state of Washington relating to infectious diseases, quarantine, and the care and disposition of dead human bodies. The board shall grade the examinations and shall determine whether the applicant has passed or failed such examination. Examinations shall be written and shall be held at such times and at such places within the state of Washington as determined by the director.

NEW SECTION. Sec. 11. Sections 3 through 10 of this 1977 amendatory act shall be added to chapter 18.39 RCW.

NEW SECTION. Sec. 12. The board of funeral directors and embalmers shall cease to exist on July 1, 1981, unless extended by law for an additional fixed period of time.

Passed the Senate May 18, 1977.

Passed the House May 13, 1977.

Approved by the Governor May 26, 1977.

Filed in Office of Secretary of State May 26, 1977.

CHAPTER 94

[House Bill No. 927]

HIGHER EDUCATION PERSONNEL LAW—EXEMPTED PERSONNEL

AN ACT Relating to state institutions of higher education; and amending section 4, chapter 36, Laws of 1969 ex. sess. and RCW 28B.16.040.

Be it enacted by the Legislature of the State of Washington:

Section 1. Section 4, chapter 36, Laws of 1969 ex. sess. and RCW 28B.16.040 are each amended to read as follows:

The following classifications, positions, and employees of institutions of higher education and related boards are hereby exempted from coverage of this chapter: