

Introduced: 5/17/75
Referred: Commerce

1 IN THE HOUSE

BY H. BEIRNE
BY REQUEST

CS

2 HOUSE BILL NO. 509

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - FIRST SESSION

5 A BILL

6 For an Act entitled: "An Act relating to funerals and the practice of
7 mortuary science; and providing for an effective date."

8 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:

9 * Section 1. AS 08 is amended by adding a new chapter to read:

10 CHAPTER 42. MORTICIANS.

11 Sec. 08.42.010. AUTHORITY OF DEPARTMENT. The department has
12 jurisdiction over the practice of mortuary science under this chapter.
13 The department may adopt and enforce regulations relating to the
14 practice of mortuary science.

15 Sec. 08.42.020. LICENSE REQUIRED FOR THE PRACTICE OF MORTUARY
16 SCIENCE. (a) No person may engage in the practice of mortuary science
17 unless licensed to do so by the department.

18 (b) A person holding a valid embalmer's license issued in this
19 state before the effective date of this chapter shall be granted a
20 license to practice mortuary science and may renew the license annually.

21 (c) In areas of the state not served by a licensed mortician, the
22 Department of Revenue may issue a permit to an unlicensed person, on
23 an annual basis, for the care and disposition of dead human bodies for
24 compensation. This permit otherwise in no way licenses the holder to
25 practice mortuary science. Except for educational background and
26 knowledge of embalming, a permit holder is required to meet the quali-
27 fications set out in this chapter.

28 Sec. 08.42.030. EXAMINATION OF APPLICANTS FOR LICENSE TO PRACTICE
29 MORTUARY SCIENCE. The department is granted authority to examine all

1 applicants for a license to practice mortuary science and to determine
2 whether an applicant possesses the necessary qualifications. The depart-
3 ment shall hold an examination at least once each year at the place and
4 time the department may determine.

5 Sec. 08.42.040. APPLICATION FOR LICENSE TO PRACTICE MORTUARY
6 SCIENCE. The applicant for an examination for a license to practice
7 mortuary science shall make application to the department in writing on
8 a form provided by the department. The application shall be supported
9 by affidavits from at least two reputable residents of the judicial
10 district in which the applicant resides or proposes to carry on the
11 practice of mortuary science certifying that the applicant is of good
12 moral character.

13 Sec. 08.42.050. QUALIFICATIONS FOR LICENSE TO PRACTICE MORTUARY
14 SCIENCE. In order to qualify for a license to practice mortuary science,
15 the applicant shall

- 16 (1) be at least 21 years of age;
- 17 (2) be of good moral character;
- 18 (3) have satisfactorily completed at least two years at an
19 accredited college or university in such subjects as the department may
20 prescribe by regulation as suitable and desirable preparation for
21 the study of mortuary science;
- 22 (4) have graduated from an accredited school or college of
23 mortuary science;
- 24 (5) have taken and passed the examination for a license to
25 practice mortuary science conducted by the department;
- 26 (6) have completed at least one year of apprenticeship as a
27 resident trainee under a mortician licensed to practice mortuary science
28 in this state.

29 Sec. 08.42.060. SCOPE AND CONDUCT OF EXAMINATION FOR A LICENSE TO

1 PRACTICE MORTUARY SCIENCE. (a) The department shall examine applicants
2 on the following subjects: theory and practice of embalming, anatomy,
3 pathology, bacteriology, hygiene (including sanitation and public
4 health), chemistry (including toxicology), restorative arts (including
5 plastic surgery and demi-surgery), funeral service arts and sciences,
6 and funeral service administration (including accounting, funeral law,
7 psychology, funeral principles, directing and management), Alaska vital
8 statistics law, the provisions of this chapter, and the regulations pro-
9 mulgated by the department under this chapter. The department shall
10 use the examination provided by the Conference of Funeral Service
11 Examining Boards of the United States, Inc. where it is applicable to
12 the subjects in this section.

13 (b) A passing grade in the examination is an average grade of at
14 least 75 per cent with no individual subject grade of less than 70 per
15 cent.

16 (c) If an applicant receives an average grade of at least 75 per
17 cent, but receives a grade of less than 70 per cent in three or fewer
18 individual subjects, he may be reexamined only in those subjects. He is
19 entitled to reexamination on individual subjects only once. A grade
20 of at least 70 per cent in each of the subjects in which the applicant
21 is reexamined is sufficient to constitute a passing grade.

22 (d) Except as provided in (b) of this section, an applicant shall
23 be reexamined in all subjects if he reapplies for examination.

24 Sec. 08.42.070. RECIPROCITY. (a) The department may recognize
25 the license issued to a mortician from another state if the applicant
26 for recognition of his license

27 (1) furnishes proof satisfactory to the department that he
28 has complied, in the state in which he is licensed, with requirements
29 substantially equal to the requirements of this chapter;

1 (2) furnishes proof satisfactory to the department that he
2 is over 21 years of age, of good moral character, that he is licensed
3 in another state, and that he has practiced mortuary science in another
4 state for one year preceding the date of application;

5 (3) takes and passes the examination provided for in (b) of
6 this section.

7 (b) The department shall examine each applicant under this section
8 on the following subjects: Alaska vital statistics law, the provisions
9 of this chapter, and the regulations promulgated by the department under
10 this chapter.

11 Sec. 08.42.080. LICENSE. A license issued under the provisions
12 of this chapter is effective for the calendar year and may be renewed
13 for successive one-year periods.

14 Sec. 08.42.090. GROUNDS FOR REFUSAL TO ISSUE OR RENEW LICENSES
15 AND SUSPENSION OR REVOCATION OF LICENSES. When the department has
16 reason to believe that an applicant or licensee has been guilty of any
17 of the following acts or omissions, or when a written complaint charging
18 an applicant or licensee with such acts or omissions is filed with the
19 department, it is the duty of the department to conduct an investigation,
20 and the department may, after proper hearing and notice in accordance
21 with the Administrative Procedure Act (AS 44.62), refuse to issue,
22 refuse to renew, or may suspend or revoke, a license upon a finding by
23 the department of any of the following acts or omissions:

- 24 (1) fraud or misrepresentation in obtaining a license;
25 (2) misrepresentation or fraud in the practice of mortuary
26 science;
27 (3) false or misleading advertising;
28 (4) aiding or abetting an unlicensed person to practice
29 mortuary science;

1 (5) using a casket or part of a casket which has previously
2 been used as a receptacle for, or in connection with, the burial or
3 other disposition of a dead human body;

4 (6) refusing to promptly surrender the custody of a dead
5 human body upon the order of the person lawfully entitled to custody;

6 (7) using profane, indecent or obscene language within the
7 immediate hearing of relatives of a deceased whose body has not yet
8 been interred or otherwise disposed of;

9 (8) solicitation of dead human bodies by the licensee, his
10 agents, servants or employees, whether solicitation occurs before or
11 after death; but this does not prohibit general advertising;

12 (9) employment by the licensee of any person for the purpose
13 of calling upon individuals or institutions to influence them to turn
14 over dead human bodies to a particular mortician;

15 (10) the direct or indirect payment or offer of payment for
16 the purpose of securing business;

17 (11) solicitation or acceptance by a licensee of any payment
18 for recommending or causing a dead human body to be disposed of in a
19 specific crematory, mausoleum or cemetery;

20 (12) violation of a state law or regulation or municipal
21 ordinance or regulation affecting the disposition of dead human bodies;

22 (13) violation of any of the provisions of this chapter;

23 (14) conviction of a felony involving moral turpitude.

24 Sec. 08.42.100. FUNERAL ESTABLISHMENT PERMIT. After the effec-
25 tive date of this chapter, no person may conduct, maintain, manage, or
26 operate a funeral establishment unless a permit for each establishment
27 has been issued by the department and is conspicuously displayed in the
28 funeral establishment. Each permit shall be valid only for one speci-
29 fic location, and separate permits shall be required of two or more

1 firms operating from the same funeral establishment. A permit to oper-
2 ate a funeral establishment shall be issued by the department upon
3 application for the permit on a form provided by the department. All
4 permits shall expire on the 31st day of December of each year and may
5 be renewed for successive one-year terms. Violation of a provision of
6 sec. 90 of this chapter by a person operating a funeral establishment
7 or with his knowledge or consent by an employee shall be considered
8 sufficient cause for suspension or revocation of the funeral establish-
9 ment permit.

10 Sec. 08.42.110. DEFINITIONS. In this chapter

11 (1) "department" means the Department of Health and Social
12 Services;

13 (2) "funeral establishment" means every place devoted to or
14 used in the care and preparation for the funeral and burial of dead
15 human bodies, or as the office or place for carrying on the profession
16 of mortuary science, or for any combination of these;

17 (3) "mortician" means a person licensed to engage in the
18 practice of mortuary science;

19 (4) "mortuary science" means embalming dead human bodies,
20 taking charge of the remains of those dead of a communicable disease,
21 or preparing dead human bodies for shipment, directing or supervising
22 funerals, preparing dead human bodies for burial by means other than
23 embalming, disposing of dead human bodies, or operating a place for the
24 care or disposition of dead human bodies.

25 Sec. 08.42.120. VIOLATIONS; PENALTIES. A person who violates or
26 aids a person in a violation of this chapter is guilty of a misdemeanor
27 and upon conviction is punishable by imprisonment for not more than one
28 year or by a fine of not more than \$500.

29 Sec. 08.42.130. ENFORCEMENT BY ATTORNEY GENERAL. The attorney

1 general may bring an action in the superior court to enjoin a person
2 from violating the provisions of this chapter.

3 * Sec. 2. AS 45.45 is amended by adding a new section to read:

4 ARTICLE 4. FUNERALS.

5 Sec. 45.45.120. DISCLOSURE OF COSTS. Every person performing
6 services or providing merchandise relating to the disposition of a dead
7 human body shall give to the person arranging for the disposition at the
8 time the arrangements are completed and before the time of rendering the
9 service or providing the merchandise a written statement showing, to
10 the extent then reasonably ascertainable,

11 (1) the price of the service and what is included;

12 (2) the price of each supplemental item of service or
13 merchandise;

14 (3) the amount involved for each of the items for which
15 money will be advanced; an item for which money is advanced shall be
16 charged in the same amount as the cost to the person making the advance;

17 (4) the method of payment.

18 * Sec. 3. AS 45.50.471 is amended by adding a new paragraph to read:

19 (22) making or entering into a contract relating to the
20 disposition of a body upon death whereby certain personal property will
21 be furnished or the professional services of a funeral director or
22 embalmer will be furnished, unless the person receiving money under the
23 contract deposits the money, within 15 days of its receipt, in a trust
24 account in a financial institution whose deposits are insured by an
25 instrumentality of the federal government as a separate account in the
26 name of the person benefited with a provision that should the money
27 deposited not be used for the purposes intended on the death of the
28 person for whose benefit the contract was made all money in the account
29 shall become part of his estate.

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* Sec. 4. AS 08.44.010 is repealed.

* Sec. 5. This Act takes effect immediately in accordance with AS 01.10.-
070(c).