

Original sponsor: H. Beirne by request

Offered: 3/4/76
Referred: Rules

1 IN THE HOUSE

BY THE COMMERCE COMMITTEE

2 CS FOR HOUSE BILL NO. 509

3 IN THE LEGISLATURE OF THE STATE OF ALASKA

4 NINTH LEGISLATURE - SECOND 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 prac-
14 tice 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 or hold himself out as engaging in the practice unless licensed as an
18 embalmer or funeral director by the department. A person holding a
19 license as a funeral director may not embalm or restore a dead human
20 body, take charge of the remains of a person dead of a communicable
21 disease, or prepare for transportation by common carrier a human body
22 dead of a communicable disease.

23 (b) A person who has actively practiced embalming in the state for
24 at least one year and holds a valid embalmer's license issued in this
25 state before the effective date of this chapter shall be granted a
26 license to practice embalming and may renew the license annually. A
27 person who has actively practiced in the state as a funeral director for
28 a period of at least one year shall be granted a license to practice as
29 a funeral director and may renew his license annually.

1 (c) In areas of the state not served by a person licensed to prac-
2 tice mortuary science, the department may issue a permit to an unli-
3 censed person, on an annual basis, for the care and disposition of dead
4 human bodies for compensation. This permit otherwise in no way licenses
5 the holder to practice mortuary science.

6 Sec. 08.42.030. EXAMINATION OF APPLICANTS FOR LICENSE TO PRACTICE
7 MORTUARY SCIENCE. The department is granted authority to examine all
8 applicants for a license to practice mortuary science and to determine
9 whether an applicant possesses the necessary qualifications. The
10 department shall hold an examination at least once each year at the
11 place and time the department may determine.

12 Sec. 08.42.040. APPLICATION FOR LICENSE TO PRACTICE MORTUARY
13 SCIENCE. The applicant for an examination for a license to practice as
14 an embalmer or as a funeral director shall make application to the
15 department in writing on a form provided by the department.

16 Sec. 08.42.050. QUALIFICATIONS FOR LICENSE TO PRACTICE MORTUARY
17 SCIENCE. (a) In order to qualify for a license to practice embalming,
18 the applicant shall

19 (1) be at least 18 years of age;

20 (2) have not been convicted of a felony involving moral tur-
21 pitude;

22 (3) have satisfactorily completed at least two years at an
23 accredited college or university in such subjects as the department may
24 prescribe by regulation as suitable and desirable preparation for the
25 study of mortuary science;

26 (4) have graduated from an accredited school or college of
27 mortuary science;

28 (5) have taken and passed the examination for a license to
29 practice embalming conducted by the department;

1 (6) have completed at least one year of apprenticeship as a
2 resident trainee under an embalmer licensed to practice embalming in
3 this state.

4 (b) In order to qualify for a license to practice funeral direct-
5 ing the applicant shall

6 (1) be at least 18 years of age;

7 (2) have not been convicted of a felony involving moral
8 turpitude;

9 (3) have satisfactorily completed at least two years at an
10 accredited college or university in such subjects as the department may
11 prescribe by regulation as suitable and desirable preparation for the
12 study of mortuary science;

13 (4) have taken and passed the examination for a license to
14 practice funeral directing conducted by the department;

15 (5) have completed at least one year of apprenticeship as a
16 trainee under a person licensed to practice funeral directing in this
17 state.

18 Sec. 08.42.060. SCOPE AND CONDUCT OF EXAMINATION FOR A LICENSE TO
19 PRACTICE MORTUARY SCIENCE. (a) The department shall examine applicants
20 for an embalmer's license on the following subjects: (1) theory and
21 practice of embalming, (2) anatomy, (3) pathology, (4) bacteriology, (5)
22 hygiene (including sanitation and public health), (6) chemistry (includ-
23 ing toxicology), (7) restorative arts (including plastic surgery and
24 demi-surgery), (8) funeral service arts and sciences, and funeral
25 service administration (including accounting, funeral law, psychology,
26 funeral principles, directing and management), (9) Alaska vital statis-
27 tics law, (10) the provisions of this chapter, and the regulations pro-
28 mulgated by the department under this chapter. The department shall
29 examine applicants for a funeral director's license on the subjects

1 included in (8), (9) and (10) of this subsection. The department may
2 use the examination provided by the Conference of Funeral Service
3 Examining Boards of the United States, Inc. where it is applicable to
4 the subjects in this section.

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

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

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

16 Sec. 08.42.070. RECIPROCITY. (a) The department may recognize
17 the license issued to an embalmer or funeral director from another state
18 if the applicant for recognition of his license

19 (1) furnishes proof satisfactory to the department that he
20 has complied, in the state in which he is licensed, with requirements
21 substantially equal to the requirements of this chapter; or furnishes
22 proof satisfactory to the department that he meets the applicable
23 requirements for the license for which he is applying except for the
24 apprenticeship and examination provisions and that he is licensed in
25 another state and has practiced mortuary science for at least one year
26 in a state where he is licensed; and

27 (2) takes and passes the examination provided for in (b) of
28 this section.

29 (b) The department shall examine each applicant under this section

1 on the following subjects: Alaska vital statistics law, the provisions
2 of this chapter, and the regulations promulgated by the department under
3 this chapter.

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

7 Sec. 08.42.090. GROUNDS FOR REFUSAL TO ISSUE OR RENEW LICENSES AND
8 SUSPENSION OR REVOCATION OF LICENSES. When the department has reason to
9 believe that an applicant or licensee has been guilty of any of the
10 following acts or omissions, it is the duty of the department to conduct
11 an investigation, and the department may, after proper hearing and
12 notice in accordance with the Administrative Procedure Act (AS 44.62),
13 refuse to issue, refuse to renew, or may suspend or revoke, a license
14 upon a finding by the department of any of the following acts or omis-
15 sions:

- 16 (1) fraud or misrepresentation in obtaining a license;
- 17 (2) misrepresentation or fraud in the practice of mortuary
18 science;
- 19 (3) false or misleading advertising;
- 20 (4) aiding or abetting an unlicensed person to practice
21 mortuary science;
- 22 (5) using a casket or part of a casket which has previously
23 been used as a receptacle for the burial or other final disposition of
24 another dead human body;
- 25 (6) refusing to promptly surrender the custody of a dead
26 human body upon the order of the person lawfully entitled to custody;
- 27 (7) solicitation of a dead human body by the licensee, his
28 agents, servants or employees, if solicitation occurs after death, or
29 while death is impending but this does not prohibit advertising or sales

1 made on a pre-need basis;

2 (8) employment by the licensee of any person for the purpose
3 of calling upon individuals or institutions to influence them to turn
4 over a dead human body to a particular licensee;

5 (9) the direct or indirect payment or offer of payment for
6 the purpose of securing business;

7 (10) solicitation or acceptance by a licensee of any payment
8 for recommending or causing a dead human body to be disposed of in a
9 specific crematory, mausoleum or cemetery;

10 (11) violation of a state law or regulation or municipal
11 ordinance or regulation affecting the disposition of a dead human body,
12 or contracts relating to the disposition of a dead human body;

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

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

15 Sec. 08.42.100. FUNERAL ESTABLISHMENT PERMIT. After the effective
16 date of this chapter, no person may conduct, maintain, manage, or
17 operate a funeral establishment unless a permit for each establishment
18 has been issued by the department and is conspicuously displayed in the
19 funeral establishment. Each permit shall be valid only for one specific
20 location, and separate permits shall be required of two or more firms
21 operating from the same funeral establishment. A permit to operate a
22 funeral establishment shall be issued by the department upon application
23 for the permit on a form provided by the department. All permits shall
24 expire on December 31 of each year and may be renewed for successive
25 one-year terms. Violation of a provision of sec. 90 of this chapter by
26 a person operating a funeral establishment or with his knowledge or
27 consent by an employee shall be considered sufficient cause for sus-
28 pension or revocation of the funeral establishment permit.

29 Sec. 08.42.110. DEFINITIONS. In this chapter

- 1 (1) "department" means the Department of Commerce;
- 2 (2) "funeral establishment" means every place devoted to or
3 used in the care and preparation for disposition of dead human bodies,
4 or as the office or place for carrying on the profession of mortuary
5 science, or for any combination of these;
- 6 (3) "mortuary science" means embalming dead human bodies,
7 taking charge of the remains of those dead of a communicable disease, or
8 preparing dead human bodies for shipment, directing or supervising
9 funerals, or preparing dead human bodies for burial by means other than
10 embalming;
- 11 (4) "resident trainee" means a person who has met the quali-
12 fications set out in sec. 50(a)(1) - (5) of this chapter and is engaged
13 in learning the practice of embalming under the direction and control of
14 a person properly licensed to practice embalming, or a person who has
15 met the qualifications set out in sec. 50(b)(1) - (4) of this chapter
16 and is engaged in learning the practice of funeral directing under the
17 direction and control of a person properly licensed to practice funeral
18 directing.

19 Sec. 08.42.120. VIOLATIONS; PENALTIES. A person who violates or
20 aids a person in a violation of this chapter is guilty of a misdemeanor
21 and upon conviction is punishable by imprisonment for not more than one
22 year or by a fine of not more than \$5,000.

23 Sec. 08.42.130. ENFORCEMENT BY ATTORNEY GENERAL. The attorney
24 general may bring an action in the superior court to enjoin a person
25 from violating the provisions of this chapter.

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

27 ARTICLE 4. FUNERALS.

28 Sec. 45.45.120. DISCLOSURE OF COSTS. Every person performing
29 services or providing merchandise relating to the disposition of a dead

1 human body shall give to the person arranging for the disposition at the
2 time the arrangements are completed and before the time of rendering the
3 service or providing the merchandise a written statement showing, to the
4 extent then reasonably ascertainable,

5 (1) the price and what is included with specific prices for
6 at least each of the following:

7 (A) transfer of remains to funeral home;

8 (B) embalming;

9 (C) use of facilities for viewing;

10 (D) use of facilities for funeral service;

11 (E) casket (a notation that a separate casket price list
12 will be provided before any sales presentation for caskets is
13 made);

14 (F) hearse;

15 (G) limousine;

16 (H) services of funeral director and staff;

17 (I) outer interment receptacles (if outer interment
18 receptacles are sold, a notation that a separate outer interment
19 receptacle price list will be provided before any sales presenta-
20 tion for such items is made);

21 (2) the price of each supplemental item of service or mer-
22 chandise;

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

26 (4) the method of payment.

27 * Sec. 3. AS 45.50.471(b) is amended by adding a new paragraph to read:

28 (23) making or entering into a contract relating to the
29 disposition of a body upon death whereby certain personal property will

1 be furnished or the professional services of a funeral director or
2 embalmer will be furnished, unless the person receiving money under the
3 contract deposits the money, within 15 days of its receipt, in a trust
4 account in a financial institution whose deposits are insured by an
5 instrumentality of the federal government as a separate account in the
6 name of the person benefited with a provision that should the money
7 deposited and any accrued interest not be used for the purposes intended
8 on the death of the person for whose benefit the contract was made all
9 money in the account shall become part of his estate; upon demand by the
10 person for whose benefit the contract was made, all money in the trust
11 account, including accrued interest, shall be paid to him and the
12 contract shall be canceled; cemetery lots and markers are not property
13 included in this paragraph.

14 * Sec. 4. AS 08.44.010 is repealed.

15 * Sec. 5. This Act takes effect January 1, 1977.

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