

Introduced: 3/26/76
Referred: Commerce

1 IN THE SENATE

BY THE COMMERCE COMMITTEE BY
REQUEST OF LEGISLATIVE COUNCIL
SUBCOMMITTEE ON MORTUARY SCIENCE

2 SENATE BILL NO. 716 am

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 and set fees relating
14 to the 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 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 biennially. 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 biennially.

1 (c) In the event the dead body is to be disposed of in a manner
2 not requiring embalming or cremation, the department may issue a
3 permit to an unlicensed person, on an annual basis, for the care
4 and disposition of dead human bodies for compensation. This permit
5 otherwise in no way licenses the holder to practice mortuary
6 science.

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

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

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

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

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

23 (3) have graduated from an accredited school or college of
24 mortuary science;

25 (4) have taken and passed the examination for a license to
26 practice embalming conducted by the department;

27 (5) have completed at least one year of apprenticeship as a
28 resident trainee under an embalmer licensed to practice embalming in
29 this state.

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

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

4 (2) have not been convicted of a felony involving moral
5 turpitude;

6 (3) have taken and passed the examination for a license to
7 practice funeral directing conducted by the department;

8 (4) have completed at least one year of apprenticeship as a
9 trainee under a person licensed to practice funeral directing in this
10 state.

11 Sec. 08.42.060. SCOPE AND CONDUCT OF EXAMINATION FOR A LICENSE TO
12 PRACTICE MORTUARY SCIENCE. (a) The department shall examine applicants
13 for an embalmer's license; the examination may include any or all of
14 the following subjects: (1) theory and practice of embalming, (2)
15 anatomy, (3) pathology, (4) bacteriology, (5) hygiene (including
16 sanitation and public health), (6) chemistry (including toxicology), (7)
17 restorative arts (including plastic surgery and demi-surgery), (8)
18 funeral service arts and sciences, and funeral service administration
19 (including accounting, funeral law, psychology, funeral principles,
20 directing and management), (9) Alaska vital statistics law, (10) the
21 provisions of this chapter, and the regulations promulgated by the
22 department under this chapter. The department shall examine applicants
23 for a funeral director's license; the examination may include any or
24 all of the subjects included in (8), (9) and (10) of this subsection.
25 The department may use the examination provided by the Conference of
26 Funeral Service Examining Boards of the United States, Inc. where it is
27 applicable to the subjects in this section.

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

cent.

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

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

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

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

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

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

Sec. 08.42.080. LICENSE. A license issued under the provisions of this chapter expires biennially on a date set by the department and may be renewed for successive two-year periods.

1 Sec. 08.42.090. GROUND S FOR REFUSAL TO ISSUE OR RENEW LICENSES AND
2 SUSPENSION OR REVOCATION OF LICENSES. When the department has reason to
3 believe that an applicant or licensee has been guilty of any of the
4 following acts or omissions, it may conduct an investigation, and the
5 department may, after proper hearing and notice in accordance with the
6 Administrative Procedure Act (AS 44.62), refuse to issue, refuse to
7 renew, or may suspend or revoke, a license upon a finding by the depart-
8 ment of any of the following acts or omissions:

9 (1) fraud or misrepresentation in obtaining a license;

10 (2) misrepresentation or fraud in the practice of mortuary
11 science;

12 (3) false or misleading advertising;

13 (4) aiding or abetting an unlicensed person to practice
14 mortuary science;

15 (5) using a casket or part of a casket which has previously
16 been used as a receptacle for the burial or other final disposition of
17 another dead human body;

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

20 (7) solicitation of a dead human body by the licensee, his
21 agents, servants or employees, if solicitation occurs after death, or
22 while death is impending but this does not prohibit advertising or sales
23 made on a pre-need basis;

24 (8) employment by the licensee of any person for the purpose
25 of calling upon individuals or institutions to influence them to turn
26 over a dead human body to a particular licensee immediately before an
27 impending death or after death;

28 (9) the direct or indirect payment or offer of payment for
29 the purpose of obtaining a dead body by the licensee, his agents,

1 servants or employees immediately before an impending death or after
2 death;

3 (10) immediately before impending death or after death,
4 solicitation or acceptance by a licensee of any payment for recommending
5 or causing a dead human body to be disposed of in a specific crematory,
6 mausoleum or cemetery provided however that nothing herein shall prevent
7 the recommendation or solicitation for sales of space and merchandise
8 in a specific crematory, mausoleum or cemetery, if said licensee has
9 an ownership interest in said specific crematory, mausoleum or cemetery
10 and such ownership interest is disclosed at the time of the sollicita-
11 tion, recommendation or sale;

12 (11) violation of a state law or regulation or municipal
13 ordinance or regulation or federal law or regulation affecting the
14 disposition of a dead human body, or contracts relating to the dis-
15 position of a dead human body;

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

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

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

1 consent by an employee shall be considered sufficient cause for sus-
2 pension or revocation of the funeral establishment permit.

3 Sec. 08.42.110. DEFINITIONS. In this chapter

4 (1) "department" means the Department of Commerce;

5 (2) "funeral establishment" means every place devoted to or
6 used in the care and preparation for disposition of dead human bodies,
7 or as the office or place for carrying on the profession of mortuary
8 science, or for any combination of these;

9 (3) "mortuary science" means embalming and cremation of
10 dead human bodies, taking charge of the remains of those dead of a
11 communicable disease, or preparing dead human bodies for shipment,
12 directing or supervising funerals;

13 (4) "resident trainee" means a person who has met the quali-
14 fications set out in sec. 50(a)(1) - (5) of this chapter and is engaged
15 in learning the practice of embalming under the direction and control of
16 a person properly licensed to practice embalming, or a person who has
17 met the qualifications set out in sec. 50(b)(1) - (4) of this chapter
18 and is engaged in learning the practice of funeral directing under the
19 direction and control of a person properly licensed to practice funeral
20 directing.

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

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

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

29 ARTICLE 4. FUNERALS.

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

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

9 (A) transfer of remains to funeral home;
10 (B) embalming;
11 (C) use of facilities for viewing;
12 (D) use of facilities for funeral service;
13 (E) casket (a notation that a separate casket price list
14 will be provided before any sales presentation for caskets is
15 made);

16 (F) hearse;
17 (G) limousine;
18 (H) services of funeral director and staff;
19 (I) outer interment receptacles (if outer interment
20 receptacles are sold, a notation that a separate outer interment
21 receptacle price list will be provided before any sales presenta-
22 tion for such items is made);

23 (2) the price of each supplemental item of service or mer-
24 chandise;

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

28 (4) the method of payment.

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

1 Sec. 45.45.125. SALE OF PREMIUM FUNERAL CONTRACTS; SELLER'S
2 CERTIFICATE OF AUTHORITY: APPLICATION CONTENTS: SUPPORTING DOCUMENTS;
3 FEE. (a) No person shall sell pre-need contracts without first
4 obtaining a certificate of authority from the department as hereinafter
5 provided.

6 (b) The proposed seller or appropriate corporate officer of the
7 seller shall make application in writing to the department for a
8 seller's certificate of authority, showing:

9 (1) the proposed sellers' name and address and his occupation
10 during the preceding five (5) years;

11 (2) the name and address of the proposed trustee;

12 (3) the names and addresses of the proposed performers,
13 specifying what particular services, supplies and equipment each
14 performer is to furnish under the proposed pre-need contract; and

15 (4) such other pertinent information as the department may
16 reasonably require.

17 (c) The application shall be accompanied by;

18 (1) the applicant's fingerprints on a form furnished by
19 the department;

20 (2) a copy of the proposed trust agreement and a written
21 statement signed by an authorized officer of the proposed trustee to
22 the effect that the proposed trustee understands the nature of the
23 proposed trust fund account and accepts it;

24 (3) a copy of each contract or understanding, existing
25 or proposed, between the seller and performers relating to the
26 proposed pre-need contract or items to be supplied under it;

27 (4) a fee of twenty-five (\$25.00) dollars, no part of
28 which is refundable.

29 (d) Pre-need contracts are those which provide for the dispo-

1 tion of a body upon death and for the guarantee of certain professional
2 services to be furnished by a funeral director or embalmer.

3 * Sec. 4. AS 08.44.010. is repealed.

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

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