

CHAPTER NO. 809

HOUSE BILL NO. 1106

By Representatives Lewis, Odom, Garrett, Givens, Ferguson

Substituted for: Senate Bill No. 181

By Senators Graves, Burchett

AN ACT to amend Tennessee Code Annotated, Title 62, Chapter 5, relative to the practice of funeral directing.

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

SECTION 1. Tennessee Code Annotated, Section 62-5-101, is amended by adding the following new appropriately designated subsections:

(\_) "Authorizing Agent(s)" means a person or persons legally entitled to authorize the cremation of a dead human body or body parts. This term shall not include a funeral director or funeral establishment.

(\_) "Cremation" means the heating process by which a human body or body parts are reduced to bone fragments through combustion and evaporation.

(\_) "Crematory" means the building or portion of a building that houses one (1) or more cremation chambers used for the reduction of body parts or bodies of deceased persons to cremated remains and the holding facility. "Crematory" includes crematorium.

SECTION 2. Tennessee Code Annotated, Title 62, Chapter 5, Part 1, is amended by adding the following language as a new appropriately designated sections:

SECTION \_\_\_\_\_. (a) A funeral director shall utilize the services only of licensed crematory facilities.

(b) If a funeral director utilizes the services of a crematory outside of Tennessee, the crematory must be a licensed facility of the state in which such crematory is located.

(c) Prior to utilizing a crematory, the funeral director shall:

(1) Determine that the crematory is currently licensed in Tennessee or, if an out-of-state crematory, the state in which it is located;

(2) Obtain and maintain a copy of such crematory's current license and further maintain a copy of the results of the latest regularly scheduled inspection of the crematory by the state in which the facility is located, if such state inspects crematories; and

(3) Deliver a written disclosure to the Authorizing Agent or Agents. Such written disclosure shall, at a minimum:

(A) Include the name, telephone number, and address of the in-state or out-of-state crematory;

(B) Provide for the specific consent of the Authorizing Agent or Agents for the use of such in-state or out-of-state crematory;

(C) Be signed and dated by the funeral director and the Authorizing Agent or Agents; and

(D) Be retained by the Tennessee funeral director at a licensed Tennessee funeral establishment, with a copy provided to the Authorizing Agent or Agents.

(d) Notwithstanding the provisions of §62-5-103, a violation for each use of an unlicensed crematory pursuant to this section shall be punishable only as provided by § 62-5-317, § 56-1-308 and any rules promulgated thereunder.

(e)(1) The funeral director shall not be liable for damages in a civil action for any error, inaccuracy or omission of any information delivered pursuant to this section if:

(A) The error, inaccuracy or omission was based upon information provided by public agencies or by other individuals or entities providing information that is required to be disclosed pursuant to this section; and

(B) The funeral director was not grossly negligent in obtaining the information from a third party and transmitting such information as required under this section.

(2) It is an affirmative defense in any such civil action that the funeral director complied with the requirements of this section upon submitting to the court copies of the signed consent form and the license and inspection results of the in-state or out-of-state crematory used by the funeral director for the cremation of the dead human body or body parts which is the subject of the civil action.

SECTION \_\_\_\_\_. Any vehicle which transports a dead human body or body parts from a funeral establishment in this state to a crematory, other than a vehicle that is owned or operated by a funeral establishment and has the name of the funeral establishment on the outside of the vehicle, shall display a copy of the crematory's current license in the vehicle in such a way as to be visible from the outside of such vehicle during the time such body or body parts are in the vehicle.

This requirement is solely to provide notice to the funeral establishment that the dead human body or body parts are being released to the proper parties for the cremation of such body or body parts and no criminal penalty shall apply if the license is not so displayed.

SECTION 3. Tennessee Code Annotated, 62-5-317(b), is amended by adding the following language as a new appropriately designated paragraph:

( ) Failure to comply with any of the provisions of this chapter or any rule or regulation promulgated or adopted by the board.

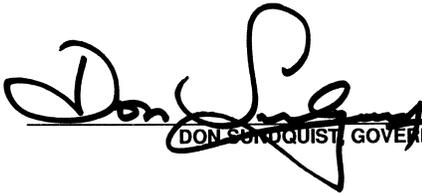
SECTION 4. For the purpose of promulgating rules and regulations including any public necessity rules, this act shall take effect upon becoming law. For all other purposes it shall take effect July 1, 2002 the public welfare requiring it.

PASSED: May 29, 2002

  
JIMMY NAIFEH, SPEAKER  
HOUSE OF REPRESENTATIVES

  
JOHN S. WILDER  
SPEAKER OF THE SENATE

APPROVED this 11<sup>th</sup> day of June 2002

  
DON SUNDQUIST, GOVERNOR