



93RD GENERAL ASSEMBLY

State of Illinois

2003 and 2004

Introduced 02/05/04, by Dan Brady

SYNOPSIS AS INTRODUCED:

New Act

Creates the Funeral Practices Act. Provides that in selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for a funeral provider to not furnish accurate price information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies. Provides that if a funeral provider complies with preventive requirements he or she is not engaged in unfair or deceptive acts or practices. Provides that in selling or offering to sell funeral goods or funeral services to the public, it is a deceptive act or practice for a funeral provider to misrepresent provisions concerning embalming, caskets for cremations, outer burial containers, and cash advances. Provides that funeral providers must retain and make available for inspection by the Federal Trade Commission true and accurate copies of price lists for at least one year after the date of their last distribution to customers, and a copy of each statement of funeral goods and services selected, for at least one year from the date of the arrangements conference. Provides that funeral providers must make all disclosures to the customer in a clear and conspicuous manner.

LRB093 16110 RXD 41741 b

1 AN ACT concerning business transactions.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 1. Short title. This Act may be cited as the
5 Funeral Practices Act.

6 Section 5. Definitions. In this Act:

7 "Alternative container" means an unfinished wood box or
8 other non-metal receptacle or enclosure, without ornamentation
9 or a fixed interior lining, which is designed for the
10 encasement of human remains and which is made of fiberboard,
11 pressed-wood, composition materials, with or without an
12 outside covering, or like materials.

13 "Cash advance item" means any item of service or
14 merchandise described to a purchaser as a "cash advance",
15 "accommodation", "cash disbursement", or similar term. A cash
16 advance item is also any item obtained from a third party and
17 paid for by the funeral provider on the purchaser's behalf.
18 Cash advance items may include, but are not limited to,
19 cemetery or crematory services, pallbearers, public
20 transportation, clergy honoraria, flowers, musicians or
21 singers, nurses, obituary notices, gratuities, and death
22 certificates.

23 "Casket" means a rigid container which is designed for the
24 encasement of human remains and which is usually constructed of
25 wood, metal, fiberglass, plastic, or like material, and
26 ornamented and lined with fabric.

27 "Casket retailer" means a person who sells or offers to
28 sell caskets.

29 "Commission" refers to the Federal Trade Commission.

30 "Cremation" means a heating process which incinerates
31 human remains.

32 "Crematory" means any person, partnership, or corporation

1 that performs cremation.

2 "Direct cremation" means a disposition of human remains by
3 cremation, without formal viewing, visitation, or ceremony
4 with the body present.

5 "Funeral ceremony" means a service commemorating the
6 deceased with the body present.

7 "Funeral goods" means the goods which are sold or offered
8 for sale directly to the public for use in connection with
9 funeral services by funeral directors, cemeterians,
10 cremationists, casket retailers, and memorial retailers.

11 "Funeral provider" means any person, partnership, or
12 corporation that sells or offers to sell funeral goods or
13 funeral services to the public.

14 "Funeral services" means: (1) any services which may be
15 used to care for and prepare deceased human bodies for burial,
16 cremation, or other final disposition and arrange, supervise,
17 or conduct the funeral ceremony or the final disposition of
18 deceased human bodies; and (2) any services provided by funeral
19 directors, cemeterians, cremationists, casket retailers, and
20 memorial retailers.

21 "Immediate burial" means a disposition of human remains by
22 burial, without formal viewing, visitation, or ceremony with
23 the body present, except for a graveside service.

24 "Memorial retailer" means a person who sells or offers to
25 sell to the public any memorial intended to mark the location
26 of the interment of human remains.

27 "Memorial service" means a ceremony commemorating the
28 deceased without the body present.

29 "Outer burial container" means any container which is
30 designed for placement in the grave around the casket
31 including, but not limited to, containers commonly known as
32 burial vaults, grave boxes, and grave liners.

33 "Person" means any individual, partnership, corporation,
34 association, government or governmental subdivision or agency,
35 or other entity.

36 "Services of funeral director and staff" means the basic

1 services, not to be included in prices of other categories in
2 paragraph (4) of subsection (b) of Section 10, that are
3 furnished by a funeral provider in arranging any funeral, such
4 as conducting the arrangements conference, planning the
5 funeral, obtaining necessary permits, and placing obituary
6 notices.

7 Section 10. Price disclosures.

8 (a) Unfair or deceptive acts or practices. In selling or
9 offering to sell funeral goods or funeral services to the
10 public, it is an unfair or deceptive act or practice for a
11 funeral provider to fail to furnish accurate price information
12 disclosing the cost to the purchaser for each of the specific
13 funeral goods and funeral services used in connection with the
14 disposition of deceased human bodies, including but not limited
15 to, the price of embalming, transportation of remains, use of
16 facilities, caskets, outer burial containers, immediate
17 burials, or direct cremations. Any funeral provider who
18 complies with the preventive requirements of subsection (b) of
19 this Section is not engaged in unfair or deceptive acts or
20 practices.

21 (b) Preventive requirements. To prevent unfair or
22 deceptive acts or practices as defined in subsection (a) of
23 this Section, as well as the unfair or deceptive acts or
24 practices defined in subdivision (b)(1) of Section 20, a
25 funeral provider must:

26 (1) Tell persons who ask by telephone about the funeral
27 provider's offerings or prices any accurate information
28 from the price lists described in paragraphs (2) through
29 (4) of this subsection (b) and any other readily available
30 information that reasonably answers the question.

31 (2) Give a printed or typewritten price list to people
32 who inquire in person about the offerings or prices of
33 caskets or alternative containers. The funeral provider
34 must offer the list upon beginning discussion of the
35 caskets. The list must contain at least the retail prices

1 of all caskets and alternative containers offered which do
2 not require special ordering, enough information to
3 identify each, and the effective date for the price list.
4 The list must contain the name of the funeral provider's
5 place of business and a caption describing the list as a
6 "casket price list". Instead of a written list, other
7 formats, such as notebooks, brochures, or charts may be
8 used if they contain the same information as would the
9 printed or typewritten list and display it in a clear and
10 conspicuous manner. A funeral provider does not have to
11 make a casket price list available if the funeral provider
12 places on the general price list the information required
13 under paragraph (4) of this subsection (b).

14 (3) Give a printed or typewritten price list to persons
15 who inquire in person about outer burial container
16 offerings or prices. The funeral provider must offer the
17 list upon beginning discussion of the containers. The list
18 must contain the retail prices of all outer burial
19 containers offered which do not require special ordering,
20 enough information to identify each container, and the
21 effective date for the prices listed. The list must contain
22 the name of the funeral provider's place of business and a
23 caption describing the list as an "outer burial container
24 price list". Instead of a written list, the funeral
25 provider may use other formats, such as notebooks,
26 brochures, or charts, if they contain the same information
27 as the printed or typewritten list and display it in a
28 clear and conspicuous manner. A funeral provider does not
29 have to make an outer burial container price list available
30 if the funeral provider places on the general price list
31 the information required under paragraph (4) of this
32 subsection (b).

33 (4) Give a printed or typewritten price list for
34 retention to persons who inquire in person about the
35 funeral goods, funeral services, or prices of funeral goods
36 or services offered by the funeral provider. The funeral

1 provider must give the list upon beginning discussion of
2 any of the following: (i) the prices of funeral goods or
3 funeral services, (ii) the overall type of funeral service
4 or disposition, or (iii) the specific funeral goods or
5 funeral services offered by the funeral provider.

6 (A) The requirement under this subsection (b)
7 applies whether the discussion takes place in a funeral
8 home or elsewhere. However, when the deceased is
9 removed for transportation to the funeral home, an
10 in-person request at that time for authorization to
11 embalm, required by paragraph (2) of subsection (a) of
12 Section 25, does not by itself trigger the requirement
13 to offer the general price list if the provider, in
14 seeking prior embalming approval, discloses that
15 embalming is not required by law except in certain
16 special cases, if any. The requirement under this
17 subsection, to give consumers a general price list,
18 applies to any other discussion during that time about
19 prices or the selection of funeral goods or services.

20 (B) The list required under this paragraph (4) must
21 contain at least the following information:

22 (i) The name, address, and telephone number of
23 the funeral provider's place of business;

24 (ii) A caption describing the list as a
25 "general price list"; and

26 (iii) The effective date for the price list.

27 (5) Include on the price list, in any order, the retail
28 prices, expressed either as the flat fee, or as the price
29 per hour, mile, or other unit of computation, and the
30 following information:

31 (A) Forwarding of remains to another funeral home,
32 together with a list of the services provided for any
33 quoted price;

34 (B) Receiving remains from another funeral home,
35 together with a list of the services provided for any
36 quoted price;

1 (C) The price range for the direct cremations
2 offered by the funeral provider, together with:

3 (i) a separate price for a direct cremation if
4 the purchaser provides the container;

5 (ii) separate prices for each direct cremation
6 offered including an alternative container; and

7 (iii) a description of the services and
8 container included in each price;

9 (D) The price range for the immediate burials
10 offered by the funeral provider, together with:

11 (i) a separate price for an immediate burial if
12 the purchaser provides the casket;

13 (ii) separate prices for each immediate burial
14 offered including a casket or alternative
15 container; and

16 (iii) a description of the services and
17 container included in that price;

18 (E) Transfer of remains to funeral home;

19 (F) Embalming;

20 (G) Other preparation of the body;

21 (H) Use of facilities and staff for viewing;

22 (I) Use of facilities and staff for funeral
23 ceremony;

24 (J) Use of facilities and staff for memorial
25 service;

26 (K) Use of equipment and staff for graveside
27 service;

28 (L) Hearse; and

29 (M) Limousine.

30 (6) Include on the price list, in any order, the
31 following information:

32 (A) The price range for the caskets offered by the
33 funeral provider, together with the statement: "A
34 complete price list will be provided at the funeral
35 provider's location."; or the prices of individual
36 caskets, disclosed as provided under paragraph (2) of

1 this subsection (b).

2 (B) The price range for the outer burial containers
3 offered by the funeral provider, together with the
4 statement: "A complete price list will be provided at
5 the funeral provider's location."; or the prices of
6 individual outer burial containers, disclosed as
7 provided under paragraph (3) of this subsection (b).

8 (C) The price for the basic services of the funeral
9 director and staff, together with a list of the
10 principal basic services provided for any quoted price
11 and, if the charge cannot be declined by the purchaser,
12 the statement: "This fee for our basic services will be
13 added to the total cost of the funeral arrangements you
14 select. (This fee is already included in our charges
15 for direct cremations, immediate burials, and
16 forwarding or receiving remains)". If the charge
17 cannot be declined by the purchaser, the quoted price
18 shall include (i) all charges for the recovery of
19 unallocated funeral provider overhead, and a funeral
20 provider may include in the required disclosure the
21 phrase "and overhead" after the word "services", or
22 (ii) the following statement: "Please note that a fee
23 of (specify dollar amount) for the use of our basic
24 services is included in the price of our caskets. This
25 same fee shall be added to the total cost of your
26 funeral arrangements if you provide the casket. Our
27 services include (specify)." The fee shall include all
28 charges for the recovery of unallocated funeral
29 provider overhead, and a funeral provider may include
30 in the required disclosure the phrase "and overhead"
31 after the word "services". The statement must be placed
32 on the general price list together with the casket
33 price range, required under paragraph (2) of this
34 subsection (b), or together with the prices of
35 individual caskets, required under paragraph (2) of
36 this subsection (b).

1 (7) Give an itemized written statement for retention to
2 each person who arranges a funeral or other disposition of
3 human remains, at the conclusion of the discussion of
4 arrangements. The information may be included on any
5 contract, statement, or other document which the funeral
6 provider would otherwise provide at the conclusion of
7 discussion of arrangements. The statement must list the
8 following information:

9 (A) The funeral goods or funeral services selected
10 by that person and the prices to be paid for each good
11 or service;

12 (B) Specifically itemized cash advance items.
13 These prices must be given to the extent then known or
14 reasonably ascertainable. If the prices are not known
15 or reasonably ascertainable, a good faith estimate
16 shall be given and a written statement of the actual
17 charges shall be provided before the final bill is
18 paid; and

19 (C) The total cost of the goods or services
20 selected.

21 (8) Give any other price information, in any other
22 format, in addition to that required under subdivisions
23 (b) (1) through (b) (7) of this Section.

24 Section 15. Misrepresentations.

25 (a) Embalming provisions.

26 (1) Deceptive acts or practices. In selling or offering
27 to sell funeral goods or funeral services to the public, it
28 is a deceptive act or practice for a funeral provider to:

29 (A) Represent that State or local law requires that
30 a deceased person be embalmed when such is not the
31 case; or

32 (B) Fail to disclose that embalming is not required
33 by law except in certain special cases, if any.

34 (2) Preventive requirements. To prevent deceptive acts
35 or practices defined in this subsection (a), as well as the

1 unfair or deceptive acts or practices defined in Sections
2 20 and 25 of this Act, a funeral provider must:

3 (A) Not represent that a deceased person is
4 required to be embalmed for:

5 (i) direct cremation;

6 (ii) immediate burial; or

7 (iii) a closed casket funeral without viewing
8 or visitation when refrigeration is available and
9 when State or local law does not require embalming;
10 and

11 (B) Place the following statement of disclosure on
12 the general price list, required under paragraph (4) of
13 subsection (b) of Section 10, in immediate conjunction
14 with the price shown for embalming: "Except in certain
15 special cases, embalming is not required by law.
16 Embalming may be necessary, however, if you select
17 certain funeral arrangements, such as a funeral with
18 viewing. If you do not want embalming, you usually have
19 the right to choose an arrangement that does not
20 require you to pay for it, such as direct cremation or
21 immediate burial." The phrase "except in certain
22 special cases" shall not be included in this disclosure
23 if State or local law in the areas where the provider
24 does business does not require embalming under any
25 circumstances.

26 (b) Casket for cremation provisions.

27 (1) Deceptive acts or practices. In selling or offering
28 to sell funeral goods or funeral services to the public, it
29 is a deceptive act or practice for a funeral provider to:

30 (A) Represent that State or local law requires a
31 casket for direct cremations; or

32 (B) Represent that a casket is required for direct
33 cremations.

34 (2) Preventive requirements. To prevent deceptive acts
35 or practices, as well as the unfair or deceptive acts or
36 practices defined in paragraph (1) of subsection (a) of

1 Section 20, a funeral provider must place the following
2 disclosure in immediate conjunction with the price range
3 shown for direct cremations: "If you want to arrange a
4 direct cremation, you may use an alternative container.
5 Alternative containers encase the body and can be made of
6 materials such as fiberboard or composition materials
7 (with or without an outside covering). The containers we
8 provide are (specify containers)." This disclosure is
9 required to be placed on the general price list only if the
10 funeral provider arranges direct cremations.

11 (c) Outer burial container provisions.

12 (1) Deceptive acts or practices. In selling or offering
13 to sell funeral goods or funeral services to the public, it
14 is a deceptive act or practice for a funeral provider to:

15 (A) Represent that State or local laws or
16 regulations, or particular cemeteries, require outer
17 burial containers when such is not the case.

18 (B) Fail to disclose to persons arranging funerals
19 that State law does not require the purchase of an
20 outer burial container.

21 (2) Preventive requirements. To prevent these
22 deceptive acts or practices, a funeral provider must place
23 the following statement of disclosure on the outer burial
24 container price list, as required under paragraph (3) of
25 subsection (b) of Section 10, or if the prices of outer
26 burial containers are listed on the general price list, as
27 required under paragraph (4) of subsection (b) of Section
28 10, in immediate conjunction with those prices: "In most
29 areas of the country, state or local law does not require
30 that you buy a container to surround the casket in the
31 grave. However, many cemeteries require that you have such
32 a container so that the grave will not sink in. Either a
33 grave or a burial vault will satisfy these requirements."
34 The phrase "in most areas of the country" shall not be
35 included in this disclosure if State or local law in the
36 areas where the provider does business does not require a

1 container to surround the casket in the grave.

2 (d) General provisions on legal and cemetery requirements.

3 (1) Deceptive acts or practices. In selling or offering
4 to sell funeral goods or funeral services to the public, it
5 is a deceptive act or practice for a funeral provider to
6 represent that federal, State, or local laws, or particular
7 cemeteries or crematories, require the purchase of any
8 funeral goods or funeral services when such is not the
9 case.

10 (2) Preventive requirements. To prevent these
11 deceptive acts or practices, as well as the deceptive acts
12 or practices identified in subdivisions (a)(1), (b)(1),
13 and (c)(1) of this Section, a funeral provider must
14 identify and briefly describe in writing on the statement
15 of funeral goods or services selected any legal, cemetery,
16 or crematory requirement that the funeral provider
17 represents to any person as compelling the purchase of
18 funeral goods or funeral services for a funeral that the
19 person is arranging.

20 (e) Provisions on preservative and protective value
21 claims. In selling or offering to sell funeral goods or funeral
22 services to the public, it is a deceptive act or practice for a
23 funeral provider to:

24 (1) Represent that funeral goods or funeral services
25 will delay the natural decomposition of human remains for a
26 long-term or indefinite time; or

27 (2) Represent that funeral goods have protective
28 features or will protect the body from gravesite
29 substances, when such is not the case.

30 (f) Cash advance provisions.

31 (1) Deceptive acts or practices. In selling or offering
32 to sell funeral goods or funeral services to the public, it
33 is a deceptive act or practice for a funeral provider to:

34 (A) Represent that the price charged for a cash
35 advance items is the same as the cost to the funeral
36 provider for the item when such is not the case; or

1 (B) Fail to disclose to persons arranging funerals
2 that the price being charged for a cash advance item is
3 not the same as the cost to the funeral provider for
4 the item when such is not the case.

5 (2) Preventive requirements. To prevent these
6 deceptive acts or practices, a funeral provider must place
7 the following sentence in the itemized statement of funeral
8 goods or services selected, in immediate conjunction with
9 the list of itemized cash advance items required under
10 paragraph (5) of subsection (b) of Section 10: "We charge
11 you for our services in obtaining: (specify cash advance
12 items)." if the funeral provider makes a charge upon, or
13 receives and retains a rebate, commission, or trade or
14 volume discount upon a cash advance item.

15 Section 20. Required purchase of funeral goods or funeral
16 services.

17 (a) Casket for cremation provisions.

18 (1) Unfair or deceptive acts or practices. In selling
19 or offering to sell funeral goods or funeral services to
20 the public, it is an unfair or deceptive act or practice
21 for a funeral provider, or a crematory, to require that a
22 casket be purchased for direct cremation.

23 (2) Preventive requirement. To prevent this unfair or
24 deceptive act or practice, a funeral provider must make an
25 alternative container available for direct cremations, if
26 the provider arranges direct cremations.

27 (b) Other required purchases of funeral goods or funeral
28 services.

29 (1) Unfair or deceptive acts or practices. In selling
30 or offering to sell funeral goods or funeral services, it
31 is an unfair or deceptive act or practice for a funeral
32 provider to:

33 (A) Condition the furnishing of any funeral good or
34 funeral service to a person arranging a funeral upon
35 the purchase of any other funeral good or funeral

1 service, except as required by law or as otherwise
2 permitted under this subsection; or

3 (B) Charge any fee as a condition to furnishing any
4 funeral goods or funeral services to a person arranging
5 a funeral, other than the fees for services of the
6 funeral director and staff, other funeral services or
7 funeral goods selected by the purchaser, and other
8 funeral goods or services required to be purchased.

9 (2) Preventive requirements. To prevent unfair or
10 deceptive acts or practices under this subsection (b), a
11 funeral provider must:

12 (A) Place the following statement of disclosure in
13 the general price list, immediately above the prices
14 required under paragraph (4) of subsection (b) of
15 Section 10: "The goods or services shown below are
16 those we can provide to our customers. You may choose
17 only the items you desire. If legal or other
18 requirements mean you must buy any items you did not
19 specifically ask for, we will explain the reason in
20 writing on the statement we provide describing the
21 funeral goods and services you selected." Provided,
22 however, that if the charge for "services of funeral
23 director and staff" can not be declined by the
24 purchaser, the statement shall include the sentence:
25 "However, any funeral arrangements you select will
26 include a charge for our basic services." between the
27 second and third sentences of the statement of
28 disclosure otherwise required under this subparagraph
29 (A). The statement may include the phrase "and
30 overhead" after the word "services" if the fee includes
31 a charge for the recovery of unallocated funeral
32 provider overhead; and

33 (B) Place the following disclosure in the
34 statement of funeral goods and services selected:
35 "Charges are only for those items that you selected or
36 that are required. If we are required by law or by a

1 cemetery or crematory to use any items, we will explain
2 the reasons in writing below."

3 Section 25. Services provided without prior approval.

4 (a) Unfair or deceptive acts or practices. In selling or
5 offering to sell funeral goods or funeral services to the
6 public, it is an unfair or deceptive act or practice for any
7 funeral provider to embalm a deceased human body for a fee
8 unless:

9 (1) State or local law or regulation requires embalming
10 in the particular circumstances regardless of any funeral
11 choice that the family might make;

12 (2) Prior approval for embalming, expressly described,
13 has been obtained from a family member or other authorized
14 person; or

15 (3) The funeral provider is unable to contact a family
16 member or other authorized person after exercising due
17 diligence, has no reason to believe the family does not
18 want embalming performed, and obtains subsequent approval
19 for embalming already performed, expressly described. In
20 seeking approval, the funeral provider must disclose that a
21 fee will be charged if the family selects a funeral that
22 requires embalming, such as a funeral with viewing, and
23 that no fee will be charged if the family selects a service
24 that does not require embalming, such as direct cremation
25 or immediate burial.

26 (b) Preventive requirement. To prevent these unfair or
27 deceptive acts or practices, a funeral provider must include on
28 the itemized statement of funeral goods or services selected,
29 required under paragraph (5) of subsection (b) of Section 10,
30 the statement: "If you selected a funeral that may require
31 embalming, such as a funeral with viewing, you may have to pay
32 for embalming. You do not have to pay for embalming you did not
33 approve if you selected arrangements such as a direct cremation
34 or immediate burial. If we charged for embalming, we will
35 explain why below."

1 Section 30. Retention of documents. To prevent the unfair
2 or deceptive acts or practices specified in Sections 5 and 10
3 of this Act, a funeral provider must retain and make available
4 for inspection by Commission officials true and accurate copies
5 of the price lists specified in subdivisions (b)(2) through
6 (b)(4) of Section 10 for at least one year after the date of
7 their last distribution to customers, and a copy of each
8 statement of funeral goods and services selected, as required
9 by paragraph (5) of subsection (b) of Section 10, for at least
10 one year from the date of the arrangements conference.

11 Section 35. Comprehension of disclosures. To prevent the
12 unfair or deceptive acts or practices specified in Sections 5
13 and 10, a funeral provider must make all disclosures required
14 by those Sections in a clear and conspicuous manner. A funeral
15 provider shall not include in the casket, outer burial
16 container, and general price lists, required under
17 subdivisions (b)(2) through (b)(4) of Section 10, any statement
18 or information that alters or contradicts the information
19 required by that Section to be included in those lists.

20 Section 40. Severability. If any provisions of this Act or
21 its application to any person or circumstance is held invalid,
22 the invalidity of that provision or application does not affect
23 other provisions or applications of this Act that can be given
24 effect without the invalid provision or application.