

HOUSE BILL No. 4891

June 7, 2005, Introduced by Reps. David Law, Caswell, Taub, Nofs, Jones, Kahn and Pearce and referred to the Committee on Judiciary.

A bill to amend 1980 PA 299, entitled "Occupational code," by amending sections 1801 and 1810 (MCL 339.1801 and 339.1810), section 1810 as amended by 1990 PA 15.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1801. As used in this article:
- 2 (a) "Funeral establishment" means a place of business used in
- 3 the care and preparation for burial or transportation of a dead
- 4 human body τ or a place where a person represents that the person
- 5 is engaged in the profession of undertaking or the practice of
- 6 mortuary science.
- 7 (b) "Holder of a license for the practice of mortuary science"

1 means a person who satisfactorily completes a course in mortuary
2 science, who passes an examination prescribed in this article,
3 serves the required resident training, and is issued a license for
4 the practice of mortuary science.

5 (c) "Practice of embalming" means the disinfecting or
6 preserving of a dead human body, entirely or in part, by the use of
7 a chemical substance, fluid, or gas in the body or by the
8 introduction of the chemical substance, fluid, or gas into the body
9 by a vascular or hypodermic injection, or by direct application
10 into an organ or cavity.

11 (d) "Practice of funeral directing" means engaging in or
12 representing oneself as engaging in the supervising of the burial
13 and disposal of a dead human body; maintaining a funeral
14 establishment for the preparation, disposition, and care of a dead
15 human body; or using, in connection with the user's name or funeral
16 establishment, the word "funeral director", **"FUNERAL SERVICE**
17 **PROFESSIONAL"**, "undertaker", **OR** "mortician", or any other title
18 embodying the words "mortuary science" or otherwise implying that
19 one is engaged as a funeral director.

20 (e) "Practice of mortuary science" means the practice of
21 embalming or the practice of funeral directing, or both.

22 (f) "Resident trainee" means a person who is engaged in
23 learning the practice of embalming or funeral directing or the
24 practice of mortuary science under the instruction and personal
25 supervision of a holder of a license for the practice of mortuary
26 science in this state.

27 Sec. 1810. (1) A person shall be subject to the penalties of

1 article 6 if the person commits 1 of the following:

2 (a) Solicitation of a dead human body by a licensed person or
3 an agent, assistant, representative, employee, or ~~a~~ person acting
4 on behalf and with the knowledge and consent, express or implied,
5 of the licensed person, whether the solicitation occurs after death
6 or while death is impending; or the procuring or allowing directly
7 or indirectly of a person to call upon an institution or individual
8 by whose influence a dead human body may be turned over to the
9 licensed person or funeral establishment.

10 (b) Procuring a person known as capper, steerer, or solicitor
11 to obtain funeral directing or embalming; or allowing or permitting
12 a capper, steerer, or solicitor to obtain funeral directing or
13 embalming for a licensed person or funeral establishment.

14 (c) The direct or indirect payment or offer of payment of a
15 commission by a licensed person or an agent, representative,
16 assistant, or employee of the licensed person for the purpose of
17 securing business.

18 (d) Aiding or abetting an unlicensed person to engage in the
19 practice of funeral directing or embalming.

20 (e) Using profane, indecent, or obscene language in the
21 presence of a dead human body, or within the immediate hearing of
22 the family or relatives of a deceased, whose body has not yet been
23 interred or otherwise disposed of.

24 (f) Solicitation or acceptance by a licensed person of a
25 commission or bonus or rebate in consideration of recommending or
26 causing a dead human body to be disposed of in a crematory,
27 mausoleum, or cemetery.

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

4 (h) A violation of a state law or municipal or county
5 ordinance or regulation affecting the handling, custody, care or
6 transportation of a dead human body.

7 (i) Refusing to promptly surrender the custody of a dead human
8 body, upon the express order of the person lawfully entitled to the
9 custody.

10 (j) Failure to secure a permit for removal or burial of a dead
11 human body before interment or disposal.

12 (k) Obtaining possession or embalming a dead human body
13 without first being expressly directed or authorized to do so by a
14 relative of the deceased person or a person entitled to custody.

15 (l) Knowingly making a false statement on a certificate of
16 death.

17 (m) Removing or embalming a dead human body if there is
18 information indicating crime or violence in connection with the
19 cause of death, unless permission of the county medical examiner
20 has first been obtained.

21 (n) If a public officer or employee, an official of a public
22 institution, convalescent home, private nursing home, maternity
23 home, public or private hospital, physician or surgeon, or any
24 other person having a professional relationship with a decedent or
25 county medical examiner or other public official having temporary
26 custody of the decedent, sending or causing to be sent to a person
27 or establishment licensed under this article the remains of a

1 deceased person without having first made inquiry as to the desires
2 of the ~~next of kin~~ **PERSON WITH AUTHORITY OVER THE DISPOSAL OF THE**
3 **REMAINS OF THE DECEDENT UNDER SECTION 3206 OF THE ESTATES AND**
4 **PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.3206,** and of the
5 person who may be chargeable with the funeral expenses of the
6 decedent. If ~~kin~~ **A PERSON WITH AUTHORITY OVER THE DISPOSAL OF THE**
7 **REMAINS OF THE DECEDENT UNDER SECTION 3206 OF THE ESTATES AND**
8 **PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.3206,** is found,
9 the person's authority and directions shall govern the disposal of
10 the remains of the decedent.

11 (o) If a licensee, receiving remains in violation of the
12 requirements of subdivision (n) and making a charge for a service
13 in connection with the remains before the delivery of the remains
14 as stipulated by the ~~kin~~ **PERSON WITH AUTHORITY OVER THE DISPOSAL**
15 **OF THE REMAINS OF THE DECEDENT UNDER SECTION 3206 OF THE ESTATES**
16 **AND PROTECTED INDIVIDUALS CODE, 1998 PA 386, MCL 700.3206.** This
17 subdivision shall not prevent a person or establishment licensed
18 under this article from charging and being reimbursed for services
19 rendered in connection with the removal of the remains of a
20 deceased person in case of accidental or violent death, and
21 rendering necessary services required until the ~~next of kin~~
22 **PERSON WITH AUTHORITY OVER THE DISPOSAL OF THE REMAINS OF THE**
23 **DECEDENT UNDER SECTION 3206 OF THE ESTATES AND PROTECTED**
24 **INDIVIDUALS CODE, 1998 PA 386, MCL 700.3206,** or the person who is
25 chargeable with the funeral expenses is notified.

26 (p) If a funeral establishment or a licensee, entering upon an
27 agreement, directly or indirectly, in which the practice of

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1 embalming or funeral directing is to be rendered in consideration
 2 for the funeral establishment, licensed person or an agent,
 3 assistant, or representative of the establishment or licensed
 4 person, being designated as beneficiary in an insurance policy or
 5 certificate. This subdivision ~~shall~~ **DOES** not govern or limit the
 6 authority of ~~[an administrator or executor~~ **A PERSONAL REPRESENTATIVE]**,
 trustee, or other person
 7 ~~having~~ **WHO HAS** a fiduciary relationship with the deceased.

8 (q) Failure to comply with part 138 of the public health code,
 9 ~~Act No. 368 of the Public Acts of 1978, being sections 333.13801 to~~
 10 ~~333.13819 of the Michigan Compiled Laws~~ **1978 PA 368, MCL 333.13801**
 11 **TO 333.13831.**

12 (2) The department, in consultation with the director of
 13 public health, shall promulgate rules to prescribe training
 14 standards for licensees and nonlicensees who handle medical waste
 15 in a funeral establishment.

16 (3) A licensee who owns or operates a funeral establishment
 17 shall train his or her employees pursuant to the rules promulgated
 18 under subsection (2).

19 Enacting section 1. This amendatory act does not take effect
 20 unless Senate Bill No. ____ or House Bill No. 4870 (request no.
 21 00385'05 *) of the 93rd Legislature is enacted into law.