

AMENDED IN SENATE AUGUST 20, 2001

AMENDED IN SENATE JULY 9, 2001

AMENDED IN ASSEMBLY APRIL 30, 2001

CALIFORNIA LEGISLATURE—2001–02 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1277**

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**Introduced by Assembly Member Cardenas**

February 23, 2001

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An act to amend ~~Section 7685~~ *Sections 7685 and 7685.5* of, and to add Sections 7685.6 and 7735.5 to, the Business and Professions Code, relating to funeral directors, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1277, as amended, Cardenas. Funeral directors.

Existing law, the Funeral Directors and Embalmers Law, requires specified information to be included in a funeral establishment's price list, *requires the availability of a consumer guide in certain situations*, and prescribes penalties for misrepresentation of a funeral director without a valid license and for any violation concerning preneed funeral arrangement contracts.

This bill would require that a statement be included on a funeral establishment's price list providing that survivors of the deceased who will be handling the funeral arrangements are entitled to receive a copy of any preneed funeral arrangement contract executed by the deceased prior to the at need arrangement session. The bill would require the *Cemetery and Funeral Bureau of the Department of Consumer Affairs* to develop a form that would be required to be provided to consumers by a funeral establishment prior to the ~~start of a consultation~~ *drafting*

*of a contract for funeral services.* The bill would require this form to be signed and dated by the consumer and a representative of the funeral establishment. The bill would require ~~the department to impose administrative fines upon a funeral establishment that violated the requirements on providing the form to the consumer. These fines would be deposited into the State Funeral Directors and Embalmers Fund which is continuously appropriated. These deposits of fines into this fund would thereby make an appropriation~~ *a funeral establishment to provide the consumer with a consumer guide for funeral and cemetery purchases prior to the drafting of a contract for funeral services.* Because the bill would add additional requirements concerning preneed funeral arrangement contracts, the violation of which is a crime, the bill would create a state-mandated local program.

The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote:  $\frac{2}{3}$  majority. Appropriation: ~~yes~~ *no*. Fiscal committee: yes. State-mandated local program: yes.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 7685 of the Business and Professions  
 2 Code is amended to read:  
 3 7685. Every funeral director shall provide to any person, upon  
 4 beginning discussion of prices or of the funeral goods and services  
 5 offered, a written or printed list containing but not necessarily  
 6 limited to the price for professional services offered, which may  
 7 include the funeral director’s services, the preparation of the body,  
 8 the use of facilities, and the use of automotive equipment. All  
 9 services included in this price or prices shall be enumerated. The  
 10 funeral director shall also provide a statement on that list that gives  
 11 the price range for all caskets offered for sale. The funeral director  
 12 shall also provide a written statement or list that, at a minimum,  
 13 specifically identifies a particular casket or caskets by price and by  
 14 thickness of metal, or type of wood, or other construction, interior  
 15 and color, in addition to other casket identification requirements  
 16 under Title 16, Code of Federal Regulations, Part 453 and any



1 subsequent version of this regulation, when a request for specific  
2 information on a casket or caskets is made in person by any  
3 individual. Prices of caskets and other identifying features such as  
4 thickness of metal, or type of wood, or other construction, interior  
5 and color, in addition to other casket identification requirements  
6 required to be given over the telephone by Title 16, Code of  
7 Federal Regulations, Part 453 and any subsequent version of this  
8 regulation, shall be provided over the telephone, if requested. The  
9 price list shall also include a statement indicating that survivors of  
10 the deceased who are handling the funeral arrangements are  
11 entitled to receive a copy of any preneed funeral arrangement  
12 contract executed by the deceased prior to the at need arrangement  
13 session.

14 SEC. 2. *Section 7685.5 of the Business and Professions Code*  
15 *is amended to read:*

16 7685.5. (a) The bureau shall make available to funeral  
17 establishments and cemetery authorities a copy of a consumer  
18 guide for funeral and cemetery purchases for purposes of  
19 reproduction and distribution. The funeral and cemetery guide that  
20 is approved by the bureau, in consultation with the funeral and  
21 cemetery industries and any other interested parties, shall be made  
22 available in printed form and electronically through the Internet.

23 (b) A funeral establishment shall prominently display and  
24 make available to any individual who, in person, inquires about  
25 funeral or cemetery purchases, a copy of the consumer guide for  
26 funeral and cemetery purchases, reproduced as specified in  
27 subdivision (a).

28 (c) *Prior to the drafting of a contract for funeral services, the*  
29 *funeral establishment shall provide the consumer with a copy of*  
30 *the consumer guide for funeral and cemetery purchases described*  
31 *in subdivisions (a) and (b).*

32 SEC. 3. Section 7685.6 is added to the Business and  
33 Professions Code, to read:

34 7685.6. (a) ~~The department bureau shall develop a form, at~~  
35 ~~a cost to be charged to funeral establishments that is made~~  
36 ~~available to funeral establishments for purposes of reproduction~~  
37 ~~and distribution and available electronically through the Internet,~~  
38 ~~that is simple and easy to read,~~ that is separate and distinct from  
39 other forms funeral establishments are required to use, and that  
40 includes all of the following:



1 (1) The definition of a preneed arrangement *adopted by the*  
2 *bureau by regulation.*

3 (2) A statement that the funeral establishment must disclose if  
4 a preneed arrangement exists ~~including~~ *and provide the survivor*  
5 *of the deceased who is handling the arrangements or the*  
6 *responsible party a copy of any preneed agreement and that this*  
7 *does not preclude* the ability of consumers to inquire about the  
8 existence of a preneed arrangement.

9 ~~(3) A statement regarding the penalties and fines that may be~~  
10 ~~imposed upon a funeral establishment for failing to disclose~~  
11 ~~information required by law including a brief explanation~~  
12 ~~regarding the department's role in enforcing these requirements.~~

13 ~~(4)~~  
14 (3) A statement about the ~~department's~~ *bureau's* role and  
15 responsibility to consumers regarding funeral establishments,  
16 including ~~department~~ *bureau* contact information and instructions  
17 stating how a consumer can report suspected wrongdoing of a  
18 funeral establishment.

19 (b) The form developed by the ~~department~~ *bureau* shall also  
20 include the following information that the consumer shall  
21 acknowledge by an affirmative check off and signature:

22 (1) That the consumer has ~~read the form in its entirety~~ *received*  
23 *the form.*

24 ~~(2) That the funeral establishment has informed the consumer~~  
25 ~~of all required disclosures.~~

26 ~~(3) That the consumer understands his or her legal rights.~~

27 ~~(4) That the consumer has requested and received the~~  
28 ~~appropriate information from the funeral establishment regarding~~  
29 ~~the existence of any preneed arrangements.~~

30 (2) *That the consumer has been provided information*  
31 *regarding the existence of any preneed arrangements by the*  
32 *funeral establishment.*

33 ~~(5)~~  
34 (3) That the consumer has received the Cemetery and Funeral  
35 Bureau consumer guide from the funeral establishment.

36 ~~(6)~~  
37 (4) That the consumer has received a copy of the funeral  
38 establishment's price list ~~as required by law.~~

39 ~~(c) The department shall ensure that the form developed~~  
40 ~~pursuant to this section is simple and easy to read.~~



1     ~~(d)~~  
 2     (c) The form developed pursuant to this section shall be  
 3 provided to and the above information shall be checked off by the  
 4 consumer prior to the ~~start of a consultation~~ *drafting of a contract*  
 5 *for funeral services* with a representative of the funeral  
 6 establishment.

7     ~~(e) At the conclusion of the consultation~~

8     (d) *Prior to drafting a contract for funeral services*, the form  
 9 developed pursuant to this section shall be signed and dated by the  
 10 consumer and a representative of the funeral establishment. ~~One~~  
 11 *The original* copy of the form shall be given to the consumer and  
 12 the funeral establishment shall retain a copy for a period of time  
 13 to be decided by the bureau.

14     ~~(f) If a funeral establishment or its representative fails to~~  
 15 ~~provide a consumer with the form developed pursuant to this~~  
 16 ~~section or fails to ensure that the form is completed prior to the start~~  
 17 ~~of a consultation, the following administrative fines shall be~~  
 18 ~~imposed on the funeral establishment and collected by the~~  
 19 ~~department:~~

20     ~~(1) A minimum fine of two thousand five hundred dollars~~  
 21 ~~(\$2,500) for the first violation.~~

22     ~~(2) A minimum fine of five thousand dollars (\$5,000) for the~~  
 23 ~~second violation.~~

24     ~~(3) A minimum fine of ten thousand dollars (\$10,000) for the~~  
 25 ~~third violation.~~

26     (e) *A violation of this section constitutes grounds for*  
 27 *disciplinary action.*

28     (f) *This section shall become operative July 1, 2002.*

29     ~~SEC. 3.~~

30     ~~SEC. 4.~~ Section 7735.5 is added to the Business and  
 31 Professions Code, to read:

32     7735.5. The preneed funeral arrangement contract shall  
 33 clearly state if benefits are unavailable or limited for any reason  
 34 during the first two years after the date of execution of the contract.

35     ~~SEC. 4.~~

36     ~~SEC. 5.~~ No reimbursement is required by this act pursuant to  
 37 Section 6 of Article XIII B of the California Constitution because  
 38 the only costs that may be incurred by a local agency or school  
 39 district will be incurred because this act creates a new crime or  
 40 infraction, eliminates a crime or infraction, or changes the penalty



1 for a crime or infraction, within the meaning of Section 17556 of  
2 the Government Code, or changes the definition of a crime within  
3 the meaning of Section 6 of Article XIII B of the California  
4 Constitution.

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