

By: Middleton

H.B. No. 3729

A BILL TO BE ENTITLED

AN ACT

relating to the regulation of funeral service practitioners.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Chapter 150, Civil Practice and Remedies Code, is amended by adding Section 150.005 to read as follows:

Sec. 150.005. LIABILITY FOR FUNERAL-RELATED SERVICES RENDERED DURING EMERGENCY OR DISASTER. (a) This section applies only to a person who holds a license issued under Chapter 651, Occupations Code, and provides services that are:

(1) within the scope of the person's license; and

(2) in response to and provided during the duration of a declared state of disaster under Section 418.014, Government Code, or a proclaimed state of emergency under Section 433.001, Government Code.

(b) A licensed practitioner who provides the services to which this section applies is not liable for civil damages, including personal injury, wrongful death, property damage, or other loss related to the practitioner's act, error, or omission in the performance of the services, unless the act, error, or omission constitutes:

(1) gross negligence; or

(2) wanton, wilful, or intentional misconduct.

SECTION 2. Section 651.259, Occupations Code, is amended by adding Subsection (h) to read as follows:

1 (h) This subsection applies only during a state of disaster
2 declared by the governor under Section 418.014, Government Code,
3 and on the commission's determination that the nature of the
4 disaster creates a substantial increase in the need for services
5 provided by a person licensed under this chapter. The commission
6 shall, as soon as practicable after an applicant who holds a license
7 issued by another state, country, or territory having license
8 requirements substantially equivalent to the requirements of this
9 state files an application for a license:

10 (1) process the application; and

11 (2) issue the license to an applicant who qualifies
12 for the license under this section.

13 SECTION 3. The heading to Section 651.403, Occupations
14 Code, is amended to read as follows:

15 Sec. 651.403. DESIGNATION OF FUNERAL DIRECTOR IN CHARGE OF
16 FUNERAL ESTABLISHMENT; EFFECT OF VIOLATION.

17 SECTION 4. Subchapter I, Chapter 651, Occupations Code, is
18 amended by adding Section 651.4035 to read as follows:

19 Sec. 651.4035. DESIGNATION OF FUNERAL DIRECTOR IN CHARGE OF
20 CREMATORY ESTABLISHMENT; EFFECT OF VIOLATION. (a) A crematory
21 establishment shall:

22 (1) designate to the commission a funeral director in
23 charge; and

24 (2) promptly notify the commission of any change in
25 that designation.

26 (b) The funeral director in charge is directly responsible
27 for the business of the crematory establishment.

1 (c) The funeral director in charge is ultimately
2 responsible for compliance with the mortuary laws. The funeral
3 director in charge may be charged with a violation of this chapter
4 if a violation occurs in the crematory establishment.

5 SECTION 5. Section 651.405, Occupations Code, is amended by
6 adding Subsection (c) to read as follows:

7 (c) A funeral establishment that has a publicly available
8 Internet website must post in a conspicuous location on the website
9 the establishment's retail price list.

10 SECTION 6. Section 651.408, Occupations Code, is amended to
11 read as follows:

12 Sec. 651.408. CERTAIN LIABILITY OF FUNERAL DIRECTORS [~~USE~~
13 ~~OF CEMETERY AND CREMATORY SERVICES~~]. The fact that a funeral
14 director contracts for cemetery, embalming, or crematory services,
15 including as part of a package arrangement, does not limit the
16 director's liability to the customer for those services.

17 SECTION 7. Subchapter I, Chapter 651, Occupations Code, is
18 amended by adding Sections 651.411, 651.412, and 651.413 to read as
19 follows:

20 Sec. 651.411. REFRIGERATION REQUIRED. Each funeral
21 establishment shall:

22 (1) maintain refrigeration capacity on the premises of
23 the establishment for at least three human remains; and

24 (2) maintain additional refrigeration capacity at
25 another location as required by commission rule.

26 Sec. 651.412. REQUIRED POSTING OF LICENSE INFORMATION. An
27 establishment licensed under this chapter shall include the name

1 and license number of the establishment on all documents made
2 publicly available, including an Internet website, contract for
3 services, and social media web page.

4 Sec. 651.413. CREMATORY ESTABLISHMENT HOURS OF OPERATION.
5 To the extent permitted by federal law, a crematory is not subject
6 to a limitation on the crematory's hours of operation imposed by the
7 Texas Commission on Environmental Quality or another entity.

8 SECTION 8. A crematory establishment is required to comply
9 with Section 651.4035, Occupations Code, as added by this Act, not
10 later than September 1, 2022.

11 SECTION 9. An establishment to which Section 651.411 or
12 651.412 Occupations Code, as added by this Act, applies is required
13 to comply with the applicable section not later than September 1,
14 2022.

15 SECTION 10. As soon as practicable after the effective date
16 of this Act, the Texas Funeral Service Commission shall adopt the
17 rules necessary to implement Chapter 651, Occupations Code, as
18 amended by this Act.

19 SECTION 11. This Act takes effect September 1, 2021.