

By: Giddings

H.B. No. 2805

A BILL TO BE ENTITLED

AN ACT

relating to regulation of casket sales.

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

SECTION 1. Subtitle L, Title 3, Occupations Code, is amended by adding Chapter 652 to read as follows:

CHAPTER 652. REGULATION OF CASKET SALES

Sec. 652.001. DEFINITIONS. In this chapter:

(1) "Casket retailer" means a person who sells a casket at retail in this state or offers a casket for retail sale in this state.

(2) "Commission" means the Texas Funeral Service Commission.

(3) "Retail casket establishment" means a place of business or any other place in which a person engages in, or represents the person to be engaged in, the business of retail casket sales.

Sec. 652.002. PROHIBITED PRACTICES. (a) A casket retailer may not:

(1) represent that the person is a funeral director, embalmer, or other person licensed under Chapter 651 unless the person holds a license under that chapter;

(2) provide funeral directing services unless the person holds a funeral director's license under Chapter 651;

(3) use false, deceptive, or misleading advertising or

1 use, in connection with an advertisement, the name of a person who
2 is falsely represented to be a licensed funeral director or
3 licensed funeral establishment;

4 (4) solicit business or offer an inducement to secure
5 or attempt to secure business for the casket retailer under a permit
6 issued under Chapter 154, Finance Code;

7 (5) take custody of human remains; or

8 (6) engage in fraudulent, unprofessional, or
9 deceptive conduct in providing funeral merchandise to a customer.

10 (b) A casket retailer may not restrict, hinder, or attempt
11 to restrict or hinder:

12 (1) the advertisement or disclosure of prices and
13 other information regarding the availability of funeral services
14 and funeral merchandise that is not unfair or deceptive to
15 consumers; or

16 (2) an agreement for funeral services between a
17 customer and a licensed funeral director or embalmer.

18 (c) A casket retailer may not use a statement that misleads
19 or deceives the public, including a false or misleading statement
20 regarding:

21 (1) a legal, religious, or cemetery requirement for
22 funeral merchandise or funeral, cemetery, or crematory services;

23 (2) the preservative qualities of funeral merchandise
24 or funeral, cemetery, or crematory services in preventing or
25 substantially delaying the natural decomposition of human remains;

26 (3) the airtight or watertight properties of a casket
27 or outer enclosure; or

1 (4) the licenses or registrations held by the
2 personnel in the operation of a cemetery, crematory, funeral
3 establishment, or retail casket establishment.

4 Sec. 652.003. CASKET DISPLAY. (a) A casket retailer shall
5 provide a display of caskets with sufficient merchandise to allow
6 customers a reasonable selection.

7 (b) A display must include at least five adult caskets, two
8 of which must be full-size.

9 (c) The least expensive casket displayed must be a full-size
10 casket displayed in the same manner as the other full-size caskets
11 are displayed.

12 Sec. 652.004. PUBLIC INTEREST INFORMATION. On written
13 request the commission shall provide to a casket retailer copies of
14 the brochure prepared by the commission under Section 651.201. A
15 casket retailer shall print additional copies of the brochure if
16 the commission is unable to provide a sufficient number of
17 brochures.

18 Sec. 652.005. RETAIL PRICE LIST; PURCHASE AGREEMENT. (a) A
19 casket retailer shall provide:

20 (1) a retail price list to each person who inquires in
21 person about the prices of the goods and services offered by the
22 retailer; and

23 (2) a purchase agreement to each person who purchases
24 goods or services from the retailer.

25 (b) A retail price list must include:

26 (1) the name, address, and telephone number of the
27 retail casket establishment;

1 (2) the effective date of the price list; and

2 (3) the following printed notice: "The goods and
3 services below are those we can legally provide to our customers.
4 You may choose only the items you desire. If you need funeral
5 directing services, please consult a licensed funeral director."

6 (c) A purchase agreement must include:

7 (1) the name, address, and telephone number of the
8 retail casket establishment;

9 (2) the name, mailing address, and telephone number of
10 the consumer protection division of the attorney general's office;

11 (3) a statement informing the person that complaints
12 may be directed to the consumer protection division of the attorney
13 general's office;

14 (4) the signature of the casket retailer; and

15 (5) the following printed notice: "The goods and
16 services listed below are those we can legally provide to our
17 customers. You may choose only the items you desire. If you need
18 funeral directing services, please consult a licensed funeral
19 director."

20 (d) A casket retailer shall provide in a timely manner
21 general information related to the goods and services offered by
22 the retailer and the prices of the goods and services to a person
23 who requests the information by telephone.

24 Sec. 652.006. RECORDS. (a) A casket retailer shall retain
25 copies of all price lists and purchase agreements required by
26 Section 652.005 until the second anniversary of the effective date
27 of a price list or of the date an agreement is signed.

1 (b) A casket retailer shall make the records retained under
2 Subsection (a) available to the attorney general on request.

3 Sec. 652.007. CIVIL PENALTY. (a) A person who violates
4 this chapter is subject to a civil penalty of not more than \$1,000
5 for each violation.

6 (b) The attorney general may bring an action to recover the
7 civil penalty.

8 (c) A penalty recovered under this section shall be
9 deposited to the credit of the general revenue fund.

10 SECTION 2. Section 651.201(a), Occupations Code, is amended
11 to read as follows:

12 (a) The commission shall prepare a brochure with
13 information of public interest:

14 (1) explaining matters relating to funerals; ~~and~~

15 (2) describing:

16 (A) the functions of the commission; and

17 (B) the commission's procedures for filing and
18 resolving a public complaint; and

19 (3) explaining the right of a customer to purchase a
20 casket from a third-party casket retailer without being charged an
21 additional fee by the funeral establishment.

22 SECTION 3. (a) Not later than March 1, 2004, the Texas
23 Funeral Service Commission shall examine the public information
24 brochure provided under Section 651.201, Occupations Code, and
25 develop a new brochure to include the additional information
26 required by Section 651.201(a), Occupations Code, as amended by
27 this Act, and other information the commission considers

1 appropriate.

2 (b) Notwithstanding Section 651.201, Occupations Code, as
3 amended by this Act, a brochure distributed by the Texas Funeral
4 Service Commission, a funeral director, a funeral establishment, a
5 casket retail establishment, or a casket retailer is not required
6 to contain the information required by that section, as amended by
7 this Act, before September 1, 2004.

8 SECTION 4. This Act takes effect September 1, 2003.