



WISCONSIN LEGISLATIVE COUNCIL AMENDMENT MEMO

2005 Assembly Bill 485

Assembly Amendment 1

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Assembly Bill 485 makes various changes to the regulation of funeral establishments and directors and creates requirements for printed advertising for cremation and funeral services.

Funeral Establishments and Directors

Under current law, a person is prohibited from operating a funeral establishment unless the Funeral Directors Examining Board (board) has issued a permit for the funeral establishment. With certain exceptions, a “funeral establishment” is defined as any building or part of a building that is used for any of the following: (1) the care and preparation for burial or transportation of dead human bodies; or (2) holding or conducting funeral services. In addition, a funeral establishment must have a preparation room for preparing and embalming dead human bodies. Current law prohibits the board from issuing a permit unless a funeral director licensed by the board is in full-time charge of the funeral establishment. As a result, a funeral director may be in charge of only one funeral establishment.

Under this bill, a funeral establishment must satisfy the following requirements to receive a permit: (1) the funeral establishment must have a seating capacity of 50 or more persons; (2) the building or structure in which the funeral establishment is located must not contain more than one other business that does not provide goods or services related to funerals, burials, or the final disposition of human remains; and (3) such building or structure must be affixed to real property. Also, the bill requires a licensed funeral director to be in charge of the funeral establishment. Unlike under current law, the funeral director does not have to be in full-time charge. However, under the bill, the funeral director may be in charge of no more than two other funeral establishments. In addition, at least one of the funeral establishments of which the funeral director is in charge must have a preparation room. Therefore, unlike under current law, a funeral establishment does not have to have a preparation room, provided that the following two conditions are satisfied: (1) no preparation or embalming of dead human bodies takes place at the funeral establishment; and (2) the funeral director in charge of the funeral establishment is also in charge of another funeral establishment that has a preparation room.

The bill also makes changes regarding the regulation of funeral directors. Under current law, a person may not act as a funeral director unless he or she is licensed by the board, and “funeral director” is defined as a person who conducts, or holds himself or herself out as conducting, embalming or otherwise preparing for, or supervising, the burial or disposal of dead human bodies. In addition, current law requires the business of a funeral director to be conducted in a funeral establishment.

In addition, the bill provides that a person who violates state law regulating funeral establishments or funeral directors may be subject to a fine of not more than \$5,000, imprisonment for not less than 30 days and no more than three months, or both. Under current law, the potential fine is limited to not less than \$50 and no more than \$200.

The bill does not affect the exemptions under current law from funeral establishment and director regulation that apply to the following: (1) certain funeral buildings in cemeteries; (2) certain persons involved in the anatomical study of indigent dead human bodies; (3) public officers and institutions; or (4) the customs or rites of any religious sect in the burial of their dead.

Printed Advertising

The bill prohibits a person from making an advertisement representing that the person conducts the business of a funeral director or provides any funeral or cremation service, unless the advertisement includes the address of one funeral establishment or place of business at which the person conducts such business or provides such services. This prohibition applies to any advertisement by newspaper, periodical, Internet web page, telephone book listing, direct mail, or electronic mail solicitation.

Assembly Amendment 1

Assembly Amendment 1 amends the bill in the following manner:

- Deletes the definition of “funeral services” contained in the bill.
- Deletes the requirement that a funeral establishment have a seating capacity of 50 or more persons before it may receive a permit to operate a funeral establishment.
- Deletes the requirement that the building or structure in which a funeral establishment is located contain no more than one other business that does not provide goods or services related to funerals, burials, or the final disposition of human remains.

Legislative History

On October 18, 2005, the Assembly Committee on Small Business recommended for adoption Assembly Amendment 1 by a vote of Ayes, 8; Noes, 0, and voted to recommend passage of the bill, as amended, by a vote of Ayes, 7; Noes, 1.