HOUSE . . . . . No. 3669

By Mr. Brownell of Quincy, petition of Thomas F. Brownell relative to requiring price disclosure by funeral directors. Health Care.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Three.

AN ACT REQUIRING PRICE DISCLOSURE BY FUNERAL DIRECTORS.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Section 82 of chapter 112 of the General Laws, as most recently amended by section 2 of chapter 653 of the acts of 1954, is hereby further amended by adding the following definitions at the end of the section: —

"Funeral merchandise" the articles and supplies sold or offered for sale directly to the public, or used by funeral directors, incident to: (a) the care and preparation of deceased human bodies for burial, cremation or other final disposition: (b) the arrangement, supervision or conducting of the funeral ceremony.

"Customer", any person, association, or other entity who or which purchases, attempts to purchase or seeks information regarding possible future of funeral services and/or merchandise, without intention of resale.

"Outer interment receptacle", any container or enclosure which is placed in the grave around the casket to protect the casket and/or to prevent the collapse of the grave including but not limited to, receptacles commonly known as burial vaults, grave boxes or grave liners.

"Casket", a rigid container which is designed for the encasement and burial of human remains and which is usually constructed of wood or metal, ornamented, and lined with fabric."

"Suitable container", any receptacle or enclosure other than a casket which is of sufficient strength to be used to hold and

transport human remains including, but not limited to, cardboard, pressed wood or composition containers and canvas or opaque polyethylene pouches.

"Adult funeral services", funeral services which are provided, at retail prices, for adults; does not include services provided for infants or small children.

"Memorial society," an unincorporated association or not-for-profit corporation which assists members in obtaining and making arrangements for funerals, cremations or other methods of disposition.

SECTION 2. Chapter 112 of the General Laws is hereby amended by striking out section 84B, as appearing in chapter 340 of the acts of 1978, and inserting in place thereof the following section: —

Section 84B. Price disclosure; unlawful practices, itemized list of costs.

A. Every licensed funeral director shall provide, maintain and prominently display at his premises, and make readily available to any customer, a printed brochure of services that are available and the prices therefor. The following shall be included in said brochure:

(a) The name and address of the funeral establishment.

(b) The effective date of the brochure.

(c) A price list for goods and services offered by the funeral home, to include the following:

(1) Transfer of remains to the funeral home.

(2) Embalming.

(3) Other preparation of remains.

(4) Professional fee for arrangements and supervision.

(5) Prices of the least expensive casket, medium priced casket, and most expensive casket offered by the funeral service establishment (i) to include a word description of the type, model number and material of each listed casket, (ii) a word description of the interior of such casket and (iii) a notation that a separate price list of all caskets offered for sale by the funeral home will be provided before any sales presentation for such item is made.

(6) Prices of the least expensive outer interment receptacle and most expensive outer interment receptacle offered by the funeral

service establishment (i) to include a word description of the type and composition and model number of each such receptacle and (ii) a notation that a separate price list of all outer interment receptacles offered for sale by the funeral service establishment will be provided before any sales presentation for such item is made.

(7) Use of facilities for viewing and services, specifying number of days.

(8) Hearse.

(9) Flower car.

(10) Passenger car.

(11) A notation that the price of the hearse, flower car and passenger car will vary in relation to the location of the cemetery.

(12) Containers suitable for cremation or burial.

(13) Price and description of the least expensive standard adult funeral offered by the funeral home.

(14) The following statement:

"Below is a list of items that may be added to the expense of a funeral:

Cemetery plot,
Grave opening charge,
Outer receptacle for casket,
Religious offering to clergy,
Cremation fee,
Death certificates,
Pallbearers,
Clothing,
Memorial cards,
Death notice in newspaper."

(15) A notation that a customer need only choose those items that he desires, unless a particular item is required by law.

(16) The following statement "Funeral home prices vary substantially. For more information on our prices for funeral merchandise and services, call: (telephone number."

(d) Said brochure shall be made current each calendary year.

(e) The board shall prescribe the form of said brochure.

(f) Said brochure may include the notation that listed prices may vary slightly during the calendar year.

B. It shall be unlawful for any licensed funeral director, his

agent or servant, to engage in or employ any of the following practices:

(a) To make any statements or claims, written or oral, which expressly or implicitly contradict, mitigate or detract from the printed disclosures which are required by this section or which are false, misleading or unsubstantiated, regarding (i) the legal necessity for embalming, a casket, or an outer interment receptacle; (ii) public health hazards associated with the failure to utilize embalming, a casket, or an outer interment receptacle; or (iii) religious requirements or customs.

(b) To fail to furnish, to each customer who inquires in person or by mail about the arrangement, purchase and/or prices of funeral merchandise or services, the printed brochure required by this section.

(c) To fail to furnish, upon customer request, a brief written, typewritten or printed explanation of legal requirements, including public health regulations, which necessitate the use of any services or merchandise.

(d) To discourage the purchase, by customers, of any funeral merchandise or service which is advertised or offered for sale by (i) disparaging the quality, appearance or tastefulness of any such merchandise or service which is advertised or offered for sale; (ii) suggesting that such merchandise or service is not readily available or can only be obtained after an appreciable delay, when such is not the case; or (iii) defacing any merchandise carried for sale.

(e) To use any policy, sales plan, or method of compensation for salespersons which has the effect of penalizing salespersons for selling any funeral merchandise or service which is advertised or offered for sale.

(f) To suggest, directly or by implication, to any customer in any manner that the customer's expressed concern about prices, inexpensive services or merchandise or an expressed desire to save money by the customer is improper, inappropriate or indicative of a lack of respect or affection for the deceased.

C. Every licensed funeral director, his agent or servant, shall give, or cause to be given to the person making funeral arrangements, or arranging for shipment, transportation or other disposi-

103 tion of a deceased person, at the time such arrangements are
104 completed or prior to the time of rendering the service, a written
105 itemized statement showing to the extent then known the price of
106 merchandise and service that such person making such arrange-
107 ments has selected; the price of supplemental items of service and
108 merchandise if any; the estimated amount of each item for which
109 the funeral service firm will advance monies as an accommodation
110 to the person making such funeral arrangements. No such funeral
111 director, his agent or servant, shall bill or cause to be billed, any
112 item that is referred to as a "cash advanced" item unless the net
113 amount paid for such item by the funeral director is the same
114 amount as is billed to such funeral director.

1 SECTION 3. Chapter 112 of the General Laws is hereby amend-
2 ed by inserting after section 87 the following section: —
3 *Section 87½. Violations.* Violations of any of the provisions
4 of sections eighty-three to eighty-seven, inclusive, shall constitute
5 an unfair and deceptive trade practice under the provisions of
6 chapter ninety-three A. Such violations may be reported to the
7 office of the attorney general or the secretary of the executive office
8 of consumer affairs. The office of the attorney general may promul-
9 gate such rules and regulations as are necessary to carry out the
10 purposes of sections eighty-three to eighty-seven, inclusive.

1 SECTION 4. This act shall take effect on the first of January in
2 the next succeeding the year in which it becomes law.