

VIRGINIA ACTS OF ASSEMBLY -- 1998 RECONVENED SESSION

CHAPTER 867

An Act to amend and reenact § 54.1-2800 of the Code of Virginia, to amend the Code of Virginia by adding in Article 3 of Chapter 28 of Title 54.1 sections numbered 54.1-2818.1, 54.1-2818.2, and 54.1-2818.3, and to repeal Article 4 (§§ 32.1-305 through 32.1-309) of Chapter 8 of Title 32.1 and § 54.1-2808 of the Code of Virginia, relating to regulation of crematories.

[H 1078]

Approved April 22, 1998

Be it enacted by the General Assembly of Virginia:

1. That § 54.1-2800 of the Code of Virginia is amended and reenacted and that the Code of Virginia is amended by adding in Article 3 of Chapter 28 of Title 54.1 sections numbered 54.1-2818.1, 54.1-2818.2, and 54.1-2818.3 as follows:

§ 54.1-2800. Definitions.

As used in this chapter, unless the context requires a different meaning:

"Advertisement" means any information disseminated or placed before the public.

"At-need" means at the time of death or while death is imminent.

"Board" means the Board of Funeral Directors and Embalmers.

"Cremate" means to reduce a dead human body to ashes and bone fragments by the action of fire.

"Cremator" means a person or establishment that owns or operates a crematory or crematorium or cremates dead human bodies.

"Crematory" or "crematorium" means a facility containing a furnace for cremation of dead human bodies.

"Embalmer" means any person engaged in the practice of embalming.

"Embalming" means the preservation and disinfection of the human dead by external or internal application of chemicals.

"Funeral directing" means the for-profit profession of directing or supervising funerals, preparing human dead for burial by means other than embalming, or making arrangements for funeral services or the financing of funeral services.

"Funeral director" means any person engaged in the practice of funeral directing.

"Funeral service establishment" means any main establishment, branch or chapel which is permanently affixed to the real estate and for which a certificate of occupancy has been issued by the local building official where any part of the profession of funeral directing or the act of embalming is performed.

"Funeral service licensee" means a person who is licensed in the practice of funeral services.

"In-person communication" means face-to-face communication and telephonic communication.

"Next of kin" means any of the following: legal spouse, child over eighteen years of age, custodial parent, noncustodial parent, siblings over eighteen years of age, guardian of minor child, guardian of minor siblings, maternal grandparents, paternal grandparents, maternal siblings over eighteen years of age and paternal siblings over eighteen years of age, or any other relative in the descending order of blood relationship.

"Practice of funeral services" means engaging in the care and disposition of the human dead, the preparation of the human dead for the funeral service, burial or cremation, the making of arrangements for the funeral service or for the financing of the funeral service and the selling or making of financial arrangements for the sale of funeral supplies to the public.

"Preneed" means at any time other than at-need.

"Preneed funeral contract" means any agreement where payment is made by the consumer prior to the receipt of services or supplies contracted for, which evidences arrangements prior to death for: (i) the providing of funeral services or (ii) the sale of funeral supplies.

"Preneed funeral planning" means the making of arrangements prior to death for: (i) the providing of funeral services or (ii) the sale of funeral supplies.

"Resident trainee" means a person who is preparing to be licensed for the practice of funeral services under the direct supervision of a practitioner licensed by the Board.

"Solicitation" means initiating contact with consumers with the intent of influencing their selection of a funeral plan or funeral service provider.

§ 54.1-2818.1. *Prerequisites for cremation.*

No dead human body shall be cremated without (i) permission of the medical examiner as required by § 32.1-284 and either (ii) visual identification of the deceased by the next-of-kin or his representative, who may be any person designated to make arrangements for the decedent's burial or the disposition of his remains pursuant to § 54.1-2825 or an agent named in an advance directive pursuant to § 54.1-2984

or (iii) a twenty-four-hour waiting period between the time of death and the cremation.

§ 54.1-2818.2. Inapplicability to officers of state and local institutions.

Nothing in this article shall be applicable to any officer of any institution operated by the Commonwealth or by any county, city or town in the performance of his duties as such.

§ 54.1-2818.3. Applications for registration required.

Any crematory shall apply for and receive a registration from the Board as a registered crematory.

2. That Article 4 (§§ 32.1-305 through 32.1-309) of Chapter 8 of Title 32.1 and § 54.1-2808 of the Code of Virginia are repealed.

3. That any crematory's valid and current registration with the Division of Vital Records of the Board of Health shall be transferred to the Board of Funeral Directors and Embalmers upon the effective date of this legislation. Such registration shall continue in force until such time as it would otherwise expire under existing laws or regulations.

4. That the Board of Funeral Directors and Embalmers shall promulgate regulations to implement this act to be effective within 280 days of the enactment of this act.