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HOUSE BILL 2636

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State of Washington

54th Legislature

1996 Regular Session

By Representatives Scott and Cairnes

Read first time 01/15/96. Referred to Committee on Health Care.

1 AN ACT Relating to funeral directors and embalmers; amending RCW  
2 18.39.035, 18.39.045, 18.39.070, 18.39.100, 18.39.175, 18.39.181,  
3 18.39.250, and 18.39.800; reenacting and amending RCW 18.39.130; and  
4 repealing RCW 18.39.160 and 18.39.190.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 **Sec. 1.** RCW 18.39.035 and 1981 c 43 s 3 are each amended to read  
7 as follows:

8 (1) An applicant for a license as a funeral director shall be at  
9 least eighteen years of age, of good moral character, and must have  
10 obtained an associate of arts degree in mortuary science or completed  
11 a course of not less than two years in an accredited college, and a  
12 one-year course of training under a licensed funeral director in this  
13 state. The applicant must also pass an examination (~~((which shall~~  
14 ~~include the following subjects:—Funeral directing, psychology, the~~  
15 ~~signs of death, sanitary science, the preparation, burial, and disposal~~  
16 ~~of dead human bodies, and the shipment of bodies of persons dying of~~  
17 ~~contagious or infectious diseases))~~ in the funeral arts and an  
18 examination in the laws of this state pertaining to the handling, care,

1 transportation, and disposition of human remains and the contents of  
2 this chapter.

3 (2) An applicant for a license as an embalmer must be at least  
4 eighteen years of age, of good moral character, and have obtained an  
5 associate of arts degree in mortuary science or completed a course of  
6 instruction in an accredited mortuary science college program and other  
7 college courses that total sixty semester hours or ninety quarter  
8 hours, completed (~~two years at an accredited college,~~) a two-year  
9 course of training under a licensed embalmer in this state, and (~~a~~  
10 ~~full course of instruction in an embalming school approved by the~~  
11 ~~board. No portion of the course of instruction in the embalming school~~  
12 ~~can be applied towards satisfaction of the two year college course.~~  
13 ~~The applicant must also pass an examination in each of the following~~  
14 ~~subjects:— Embalming, anatomy and physiology including histology,~~  
15 ~~embryology, and dissection, pathology, bacteriology, public health~~  
16 ~~including sanitation and hygiene, chemistry including toxicology,~~  
17 ~~restorative art including plastic surgery and demi-surgery,~~) have  
18 passed an examination in the funeral sciences and an examination in the  
19 laws of this state pertaining to the handling, care, (~~disinfection,~~  
20 preservation,) transportation, (~~burial, and disposal of dead human~~  
21 ~~bodies~~) and disposition of human remains, and the contents of this  
22 chapter (~~and of the law of the state relating to infectious diseases~~  
23 ~~and quarantine~~)).

24 **Sec. 2.** RCW 18.39.045 and 1982 c 66 s 20 are each amended to read  
25 as follows:

26 (1) The two-year college course required for funeral directors  
27 under this chapter shall consist of sixty semester or ninety quarter  
28 hours of instruction at a school, college, or university accredited by  
29 the Northwest Association of Schools and Colleges or other accrediting  
30 association approved by the board, with a minimum 2.0 grade point, or  
31 a grade of C or better, in each subject required by subsection (2) of  
32 this section.

33 (2) Credits shall include one course in (~~each of the following~~  
34 ~~subjects:~~) psychology, one in mathematics, (~~chemistry, and biology~~  
35 or zoology.—Instruction shall also include) two courses in English  
36 composition and rhetoric, two courses in social science, and three  
37 courses selected from the following subjects: Behavioral sciences,

1 public speaking, counseling, business administration and management,  
2 and first aid.

3 (3) This section does not apply to any person registered and in  
4 good standing as an apprentice funeral director or embalmer on or  
5 before January 1, 1982.

6 **Sec. 3.** RCW 18.39.070 and 1981 c 43 s 6 are each amended to read  
7 as follows:

8 (1) License examinations shall be held by the director at least  
9 once each year at a time and place to be designated by the director.  
10 Application to take an examination shall be filed with the director at  
11 least forty-five days prior to the examination date and the department  
12 shall give each applicant notice of the time and place of the next  
13 examination by written notice mailed to the applicant's address as  
14 given upon his or her application not later than fifteen days before  
15 the examination, but no person may take an examination unless his or  
16 her application has been on file for at least fifteen days before the  
17 examination. The applicant shall be deemed to have passed an  
18 examination if the applicant attains a grade of not less than seventy-  
19 five percent in each (~~(subject of the)~~) examination. Any applicant who  
20 fails (~~(any subject in the first)~~) an examination shall be entitled, at  
21 no additional fee, to (~~(a second)~~) one retake of that examination (~~(in~~  
22 ~~the subject or subjects at the next regular examination)~~).

23 (2) An applicant for a license hereunder may take his or her  
24 written examination after completing the educational requirements and  
25 before completing the course of training required under RCW 18.39.035.

26 **Sec. 4.** RCW 18.39.100 and 1937 c 108 s 7 are each amended to read  
27 as follows:

28 Every license issued hereunder shall specify the name of the person  
29 to whom it is issued(~~(, shall bear the signature of the licensee for~~  
30 ~~identification purposes,)~~) and shall be displayed conspicuously in his  
31 or her place of business. No license shall be assigned, and not more  
32 than one person shall carry on the profession or business of funeral  
33 directing or embalming under one license.

34 **Sec. 5.** RCW 18.39.130 and 1986 c 259 s 60 and 1985 c 7 s 39 are  
35 each reenacted and amended to read as follows:

1       The board may recognize licenses issued to funeral directors or  
2 embalmers from other states if the applicant's qualifications are  
3 comparable to the requirements of this chapter. Five years active  
4 experience as a licensee may be accepted to make up a deficit in the  
5 comparable education requirements. Upon presentation of the license  
6 and payment by the holder of a fee determined under RCW 43.24.086, and  
7 successful completion of the examination of the laws of this state  
8 pertaining to the handling, care, transportation, and disposition of  
9 human remains and the contents of this chapter, the board may issue a  
10 funeral director's or embalmer's license under this chapter. ((The  
11 license may be renewed annually upon payment of the renewal license fee  
12 as herein provided by license holders residing in the state of  
13 Washington.))

14       **Sec. 6.** RCW 18.39.175 and 1994 c 17 s 1 are each amended to read  
15 as follows:

16       Each member of the board of funeral directors and embalmers shall  
17 be compensated in accordance with RCW 43.03.240 and shall be reimbursed  
18 for travel expenses in connection with board duties in accordance with  
19 RCW 43.03.050 and 43.03.060.

20       The state board of funeral directors and embalmers shall have the  
21 following duties and responsibilities:

22       (1) To be responsible for the preparation, conducting, and grading  
23 of examinations of applicants for funeral director and embalmer  
24 licenses;

25       (2) To certify to the director the results of examinations of  
26 applicants and certify the applicant as having "passed" or "failed";

27       (3) To make findings and recommendations to the director on any and  
28 all matters relating to the enforcement of this chapter;

29       (4) To adopt, promulgate, and enforce reasonable rules. Rules  
30 regulating the cremation of human remains ((and establishing fees)) and  
31 permit requirements shall be adopted in consultation with the cemetery  
32 board;

33       (5) To examine or audit or to direct the examination and audit of  
34 prearrangement funeral service trust fund records for compliance with  
35 this chapter and rules adopted by the board; and

36       (6) To adopt rules establishing mandatory continuing education  
37 requirements to be met by persons applying for license renewal.

1       **Sec. 7.** RCW 18.39.181 and 1986 c 259 s 65 are each amended to read  
2 as follows:

3       The director shall have the following powers and duties:

4       (1) To issue all licenses provided for under this chapter;

5       (2) To ((annually)) renew licenses under this chapter;

6       (3) To collect all fees prescribed and required under this chapter;

7 and

8       (4) To keep general books of record of all official acts,  
9 proceedings, and transactions of the department of licensing while  
10 acting under this chapter.

11       **Sec. 8.** RCW 18.39.250 and 1995 1st sp.s. c 18 s 62 are each  
12 amended to read as follows:

13       (1) Any funeral establishment selling funeral merchandise or  
14 services by prearrangement funeral service contract and accepting  
15 moneys therefore shall establish and maintain one or more  
16 prearrangement funeral service trusts under Washington state law with  
17 two or more designated trustees, for the benefit of the beneficiary of  
18 the prearrangement funeral service contract or may join with one or  
19 more other Washington state licensed funeral establishments in a  
20 "master trust" provided that each member of the "master trust" shall  
21 comply individually with the requirements of this chapter.

22       (2) Up to ten percent of the cash purchase price of each  
23 prearrangement funeral service contract, excluding sales tax, may be  
24 retained by the funeral establishment unless otherwise provided in this  
25 chapter. If the prearrangement funeral service contract is canceled  
26 within thirty calendar days of its signing, then the purchaser shall  
27 receive a full refund of all moneys paid under the contract.

28       (3) At least ninety percent of the cash purchase price of each  
29 prearrangement funeral service contract, paid in advance, excluding  
30 sales tax, shall be placed in the trust established or utilized by the  
31 funeral establishment. Deposits to the prearrangement funeral service  
32 trust shall be made not later than the twentieth day of the month  
33 following receipt of each payment made on the last ninety percent of  
34 each prearrangement funeral service contract, excluding sales tax.

35       (4) All prearrangement funeral service trust moneys shall be  
36 deposited in an insured account in a qualified public depository or  
37 shall be invested in instruments issued or insured by any agency of the  
38 federal government if these securities are held in a public depository.

1 The account shall be designated as the prearrangement funeral service  
2 trust of the funeral establishment for the benefit of the beneficiaries  
3 named in the prearrangement funeral service contracts. The  
4 prearrangement funeral service trust shall not be considered as, nor  
5 shall it be used as, an asset of the funeral establishment.

6 (5) After deduction of reasonable fees for the administration of  
7 the trust, taxes paid or withheld, or other expenses of the trust, all  
8 interest, dividends, increases, or accretions of whatever nature earned  
9 by a trust shall be kept unimpaired and shall become a part of the  
10 trust. Adequate records shall be maintained to allocate the share of  
11 principal and interest to each contract. Fees deducted for the  
12 administration of the trust shall not exceed one percent per year of  
13 the ((face)) amount ((of the prearrangement funeral service contract  
14 ~~per annum~~)) in trust. In no instance shall the administrative charges  
15 deducted from the prearrangement funeral service trust reduce,  
16 diminish, or in any other way lessen the value of the trust so that the  
17 services or merchandise provided for under the contract are reduced,  
18 diminished, or in any other way lessened.

19 (6) Except as otherwise provided in this chapter, the trustees of  
20 a prearrangement funeral service trust shall permit withdrawal of all  
21 funds deposited under a prearrangement funeral service contract, plus  
22 accruals thereon, under the following circumstances and conditions:

23 (a) If the funeral establishment files a verified statement with  
24 the trustees that the prearrangement funeral merchandise and services  
25 covered by the contract have been furnished and delivered in accordance  
26 therewith; or

27 (b) If the funeral establishment files a verified statement with  
28 the trustees that the prearrangement funeral merchandise and services  
29 covered by the contract have been canceled in accordance with its  
30 terms.

31 (7) Subsequent to the thirty calendar day cancellation period  
32 provided for in this chapter, any purchaser or beneficiary who has a  
33 revocable prearrangement funeral service contract has the right to  
34 demand a refund of the amount in trust.

35 (8) Prearrangement funeral service contracts which have or should  
36 have an account in a prearrangement funeral service trust may be  
37 terminated by the board if the funeral establishment goes out of  
38 business, becomes insolvent or bankrupt, makes an assignment for the  
39 benefit of creditors, has its prearrangement funeral service

1 certificate of registration revoked, or for any other reason is unable  
2 to fulfill the obligations under the contract. In such event, or upon  
3 demand by the purchaser or beneficiary of the prearrangement funeral  
4 service contract, the funeral establishment shall refund to the  
5 purchaser or beneficiary all moneys deposited in the trust and  
6 allocated to the contract unless otherwise ordered by a court of  
7 competent jurisdiction. The purchaser or beneficiary may, in lieu of  
8 a refund, elect to transfer the prearrangement funeral service contract  
9 and all amounts in trust to another funeral establishment licensed  
10 under this chapter which will agree, by endorsement to the contract, to  
11 be bound by the contract and to provide the funeral merchandise or  
12 services. Election of this option shall not relieve the defaulting  
13 funeral establishment of its obligation to the purchaser or beneficiary  
14 for any amounts required to be, but not placed, in trust.

15 (9) Prior to the sale or transfer of ownership or control of any  
16 funeral establishment which has contracted for prearrangement funeral  
17 service contracts, any person, corporation, or other legal entity  
18 desiring to acquire such ownership or control shall apply to the  
19 director in accordance with RCW 18.39.145. Persons and business  
20 entities selling or relinquishing, and persons and business entities  
21 purchasing or acquiring ownership or control of such funeral  
22 establishments shall each verify and attest to a report showing the  
23 status of the prearrangement funeral service trust or trusts on the  
24 date of the sale. This report shall be on a form prescribed by the  
25 board and shall be considered part of the application for a funeral  
26 establishment license. In the event of failure to comply with this  
27 subsection, the funeral establishment shall be deemed to have gone out  
28 of business and the provisions of subsection (8) of this section shall  
29 apply.

30 (10) Prearrangement funeral service trust moneys shall not be used,  
31 directly or indirectly, for the benefit of the funeral establishment or  
32 any director, officer, agent, or employee of the funeral establishment  
33 including, but not limited to, any encumbrance, pledge, or other use of  
34 prearrangement funeral service trust moneys as collateral or other  
35 security.

36 (11)(a) If, at the time of the signing of the prearrangement  
37 funeral service contract, the beneficiary of the trust is a recipient  
38 of public assistance as defined in RCW 74.04.005, or reasonably  
39 anticipates being so defined, the contract may provide that the trust

1 will be irrevocable. If after the contract is entered into, the  
2 beneficiary becomes eligible or seeks to become eligible for public  
3 assistance under Title 74 RCW, the contract may provide for an election  
4 by the beneficiary, or by the purchaser on behalf of the beneficiary,  
5 to make the trust irrevocable thereafter in order to become or remain  
6 eligible for such assistance.

7 (b) The department of social and health services shall notify the  
8 trustee of any prearrangement service trust that the department has a  
9 claim on the estate of a beneficiary for long-term care services. Such  
10 notice shall be renewed at least every three years. The trustees upon  
11 becoming aware of the death of a beneficiary shall give notice to the  
12 department of social and health services, office of financial recovery,  
13 who shall file any claim there may be within thirty days of the notice.

14 (12) Every prearrangement funeral service contract financed through  
15 a prearrangement funeral service trust shall contain language which:

16 (a) Informs the purchaser of the prearrangement funeral service  
17 trust and the amount to be deposited in the trust;

18 (b) Indicates if the contract is revocable or not in accordance  
19 with subsection (11) of this section;

20 (c) Specifies that a full refund of all moneys paid on the contract  
21 will be made if the contract is canceled within thirty calendar days of  
22 its signing;

23 (d) Specifies that, in the case of cancellation by a purchaser or  
24 beneficiary eligible to cancel under the contract or under this  
25 chapter, up to ten percent of the contract amount may be retained by  
26 the seller to cover the necessary expenses of selling and setting up  
27 the contract;

28 (e) Identifies the trust to be used and contains information as to  
29 how the trustees may be contacted.

30 **Sec. 9.** RCW 18.39.800 and 1993 c 43 s 2 are each amended to read  
31 as follows:

32 The funeral directors and embalmers account is created in the  
33 ~~((custody of the))~~ state ~~((treasurer))~~ treasury. All fees received by  
34 the department for licenses, registrations, renewals, examinations, and  
35 audits shall be forwarded to the state treasurer who shall credit the  
36 money to the account. All fines and civil penalties ordered by the  
37 superior court or fines ordered pursuant to RCW 18.130.160(8) against  
38 holders of licenses or registrations issued under the provisions of



1 this chapter shall be paid to the account. All expenses incurred in  
2 carrying out the licensing and registration activities of the  
3 department and the state funeral directors and embalmers board under  
4 this chapter shall be paid from the account as authorized by  
5 legislative appropriation. Any residue in the account shall be  
6 accumulated and shall not revert to the general fund at the end of the  
7 biennium. All earnings of investments of balances in the account shall  
8 be credited to the general fund. Any fund balance remaining in the  
9 health professions account attributable to the funeral director and  
10 embalmer professions as of July 1, 1993, shall be transferred to the  
11 funeral directors and embalmers account.

12 NEW SECTION. **Sec. 10.** The following acts or parts of acts are  
13 each repealed:

14 (1) RCW 18.39.160 and 1937 c 108 s 12; and

15 (2) RCW 18.39.190 and 1981 c 43 s 14 & 1937 c 108 s 9.

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