HOUSE BILL NO. 1432

AN ACT TO AMEND SECTION 73-11-61, MISSISSIPPI CODE OF 1972, TO CODIFY CERTAIN PROVISIONS OF FEDERAL LAW THAT REQUIRE PRICE DISCLOSURES BY PERSONS SELLING OR OFFERING TO SELL FUNERAL GOODS AND SERVICES AND THAT PROSCRIBE CERTAIN CONDUCT BY FUNERAL PROVIDERS AS UNFAIR OR DECEPTIVE; AND FOR RELATED PURPOSES.

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

SECTION 1. Section 73-11-61, Mississippi Code of 1972, is amended as follows:

73-11-61. (1) Every funeral director or funeral service licensee shall provide, before the rendering of services, the funeral establishment's current general price list, casket price list, outer container price list, and a statement of goods and services to the person or persons who authorize the services and is responsible for payment of the expenses therefor, in a manner and format as prescribed by the Federal Trade Commission's Funeral Rule of 1984 and any future changes with regard to required disclosures. The general price list must be made available to any person upon request.

(2) In selling or offering to sell funeral goods or funeral services to the public, it is an unfair or deceptive act or practice for a funeral provider to fail to furnish accurate price information disclosing the cost to the purchaser for each of the specific funeral goods and funeral services used in connection with the disposition of deceased human bodies, including at least the price of embalming, transportation of remains, use of facilities, caskets, outer burial containers, immediate burials, or direct cremations, to persons inquiring about the purchase of funerals. Any funeral provider who complies with the preventive...
requirements in subsection (3) of this section is not engaged in
the unfair or deceptive acts or practices defined here.

(3) To prevent these unfair or deceptive acts or practices,
as well as the unfair or deceptive acts or practices defined in
subsection (2) of this section, funeral providers must:

(a) Tell persons who ask by telephone about the funeral
provider's offerings or prices any accurate information from the
price lists described in paragraphs (b) through (d) of this
subsection and any other readily available information that
reasonably answers the question.

(b) (i) Give a printed or typewritten price list to
people who inquire in person about the offerings or prices of
caskets or alternative containers. The funeral provider must
offer the list upon beginning discussion of, but in any event
before showing caskets. The list must contain at least the retail
prices of all caskets and alternative containers offered which do
not require special ordering, enough information to identify each,
and the effective date for the price list. In lieu of a written
list, other formats, such as notebooks, brochures, or charts may
be used if they contain the same information as would the printed
or typewritten list, and display it in a clear and conspicuous
manner. However, funeral providers do not have to make a casket
price list available if the funeral providers place on the general
price list specified in paragraph (d) of this subsection, the
information required by this paragraph.

(ii) The name of the funeral provider's place of
business and a caption describing the list as a "casket price
list."

(c) Give a printed or typewritten price list to persons
who inquire in person about outer burial container offerings or
prices. The funeral provider must offer the list upon beginning
discussion of, but in any event before showing the containers.
The list must contain at least the retail prices of all outer
burial containers offered which do not require special ordering, enough information to identify each container, and the effective date for the prices listed. In lieu of a written list, the funeral provider may use other formats, such as notebooks, brochures, or charts, if they contain the same information as the printed or typewritten list, and display it in a clear and conspicuous manner. However, funeral providers do not have to make an outer burial container price list available if the funeral providers place on the general price list the name of the funeral provider's place of business and a caption describing the list as an "outer burial container price list."

(d) (i) 1. Give a printed or typewritten price list for retention to persons who inquire in person about the funeral goods, funeral services or prices of funeral goods or services offered by the funeral provider. The funeral provider must give the list upon beginning discussion of any of the following:

   a. The prices of funeral goods or funeral services;

   b. The overall type of funeral service or disposition; or

   c. Specific funeral goods or funeral services offered by the funeral provider.

2. The requirement in subparagraph (d)(i)1. of this subsection applies whether the discussion takes place in the funeral home or elsewhere. However, when the deceased is removed for transportation to the funeral home, an in-person request at that time for authorization to embalm does not, by itself, trigger the requirement to offer the general price list if the provider in seeking prior embalming approval discloses that embalming is not required by law except in certain special cases, if any. Any other discussion during that time about prices or the selection of funeral goods or services triggers the requirement.
under subparagraph (d)(i)1. of this subsection to give consumers a
general price list.

3. The list required in subparagraph (d)(i)1. of this subsection must contain at least the following
information:
   a. The name, address, and telephone
   number of the funeral provider's place of business;
   b. A caption describing the list as a
   "general price list"; and
   c. The effective date for the price
   list;

(ii) Include on the price list, in any order, the
retail prices (expressed either as the flat fee, or as the price
per hour, mile or other unit of computation) and the other
information specified below for at least each of the following
items, if offered for sale:
   1. Forwarding of remains to another funeral
   home, together with a list of the services provided for any quoted
   price;
   2. Receiving remains from another funeral
   home, together with a list of the services provided for any quoted
   price;
   3. The price range for the direct cremations
   offered by the funeral provider, together with:
      a. A separate price for a direct
      cremation where the purchaser provides the container;
      b. Separate prices for each direct
      cremation offered including an alternative container; and
      c. A description of the services and
      container (where applicable), included in each price;
   4. The price range for the immediate burials
   offered by the funeral provider, together with:
a. A separate price for an immediate burial where the purchaser provides the casket;

b. Separate prices for each immediate burial offered including a casket or alternative container; and
c. A description of the services and container (where applicable) included in that price;

5. Transfer of remains to funeral home;

6. Embalming;

7. Other preparation of the body;

8. Use of facilities and staff for viewing;

9. Use of facilities and staff for funeral ceremony;

10. Use of facilities and staff for memorial service;

11. Use of equipment and staff for graveside service;

12. Hearse; and

13. Limousine.

(iii) Include on the price list, in any order, the following information:

1. Either of the following:
   a. The price range for the caskets offered by the funeral provider, together with the statement: "A complete price list will be provided at the funeral home."; or
   b. The prices of individual caskets, disclosed in the manner specified by subparagraph (3)(b)(i) of this section; and

2. Either of the following:
   a. The price range for the outer burial containers offered by the funeral provider, together with the statement: "A complete price list will be provided at the funeral home."; or
b. The prices of individual outer burial containers, disclosed in the manner specified by subparagraph (3)(c)(i) of this section; and

3. Either of the following:

a. The price for the basic services of funeral director and staff, together with a list of the principal basic services provided for any quoted price and, if the charge cannot be declined by the purchaser, the statement: "This fee for our basic services will be added to the total cost of the funeral arrangements you select. (This fee is already included in our charges for direct cremations, immediate burials, and forwarding or receiving remains.)". If the charge cannot be declined by the purchaser, the quoted price shall include all charges for the recovery of unallocated funeral provider overhead, and funeral providers may include in the required disclosure the phrase "and overhead" after the word "services"; or

b. The following statement: "Please note that a fee of (specify dollar amount) for the use of our basic services is included in the price of our caskets. This same fee shall be added to the total cost of your funeral arrangements if you provide the casket. Our services include (specify)." The fee shall include all charges for the recovery of unallocated funeral provider overhead, and funeral providers may include in the required disclosure the phrase "and overhead" after the word "services." The statement must be placed on the general price list together with the casket price range, required by subparagraph (3)(d)(iii)1.a. of this section, or together with the prices of individual caskets, required by subparagraph (3)(d)(iii)1.b. of this section.

(iv) The services fee permitted by subparagraph (3)(d)(iii)3.a. or subparagraph (3)(d)(iii)3.b. of this section is the only funeral provider fee for services, facilities or
unallocated overhead permitted by this part to be nondeclinable, unless otherwise required by law.

c. Statement of funeral goods and services selected.
   (I) Give an itemized written statement for retention to each person who arranges a funeral or other disposition of human remains, at the conclusion of the discussion of arrangements. The statement must list at least the following information:
   A. The funeral goods and funeral services selected by that person and the prices to be paid for each of them;
   B. Specifically itemized cash advance items. (These prices must be given to the extent then known or reasonably ascertainable. If the prices are not known or reasonably ascertainable, a good faith estimate shall be given and a written statement of the actual charges shall be provided before the final bill is paid.); and
   C. The total cost of the goods and services selected.
   (II) The information required by this subparagraph may be included on any contract, statement, or other document which the funeral provider would otherwise provide at the conclusion of discussion of arrangements.

   d. Funeral providers may give persons any other price information, in any other format, in addition to that required by this section.

SECTION 2. This act shall take effect and be in force from and after July 1, 2003.