

By: Representative Banks

To: Public Health and Welfare

HOUSE BILL NO. 1432

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

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

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

9 73-11-61. (1) Every funeral director or funeral service
10 licensee shall provide, before the rendering of services, the
11 funeral establishment's current general price list, casket price
12 list, outer container price list, and a statement of goods and
13 services to the person or persons who authorize the services and
14 is responsible for payment of the expenses therefor, in a manner
15 and format as prescribed by the Federal Trade Commission's Funeral
16 Rule of 1984 and any future changes with regard to required
17 disclosures. The general price list must be made available to any
18 person upon request.

19 (2) In selling or offering to sell funeral goods or funeral
20 services to the public, it is an unfair or deceptive act or
21 practice for a funeral provider to fail to furnish accurate price
22 information disclosing the cost to the purchaser for each of the
23 specific funeral goods and funeral services used in connection
24 with the disposition of deceased human bodies, including at least
25 the price of embalming, transportation of remains, use of
26 facilities, caskets, outer burial containers, immediate burials,
27 or direct cremations, to persons inquiring about the purchase of
28 funerals. Any funeral provider who complies with the preventive



29 requirements in subsection (3) of this section is not engaged in
30 the unfair or deceptive acts or practices defined here.

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

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

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

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

57 (c) Give a printed or typewritten price list to persons
58 who inquire in person about outer burial container offerings or
59 prices. The funeral provider must offer the list upon beginning
60 discussion of, but in any event before showing the containers.
61 The list must contain at least the retail prices of all outer



62 burial containers offered which do not require special ordering,
63 enough information to identify each container, and the effective
64 date for the prices listed. In lieu of a written list, the
65 funeral provider may use other formats, such as notebooks,
66 brochures, or charts, if they contain the same information as the
67 printed or typewritten list, and display it in a clear and
68 conspicuous manner. However, funeral providers do not have to
69 make an outer burial container price list available if the funeral
70 providers place on the general price list the name of the funeral
71 provider's place of business and a caption describing the list as
72 an "outer burial container price list."

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

78 a. The prices of funeral goods or
79 funeral services;

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

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

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



94 under subparagraph (d)(i)1. of this subsection to give consumers a
95 general price list.

96 3. The list required in subparagraph (d)(i)1.
97 of this subsection must contain at least the following
98 information:

99 a. The name, address, and telephone
100 number of the funeral provider's place of business;

101 b. A caption describing the list as a
102 "general price list"; and

103 c. The effective date for the price
104 list;

105 (ii) Include on the price list, in any order, the
106 retail prices (expressed either as the flat fee, or as the price
107 per hour, mile or other unit of computation) and the other
108 information specified below for at least each of the following
109 items, if offered for sale:

110 1. Forwarding of remains to another funeral
111 home, together with a list of the services provided for any quoted
112 price;

113 2. Receiving remains from another funeral
114 home, together with a list of the services provided for any quoted
115 price;

116 3. The price range for the direct cremations
117 offered by the funeral provider, together with:

118 a. A separate price for a direct
119 cremation where the purchaser provides the container;

120 b. Separate prices for each direct
121 cremation offered including an alternative container; and

122 c. A description of the services and
123 container (where applicable), included in each price;

124 4. The price range for the immediate burials
125 offered by the funeral provider, together with:



126 a. A separate price for an immediate
127 burial where the purchaser provides the casket;
128 b. Separate prices for each immediate
129 burial offered including a casket or alternative container; and
130 c. A description of the services and
131 container (where applicable) included in that price;
132 5. Transfer of remains to funeral home;
133 6. Embalming;
134 7. Other preparation of the body;
135 8. Use of facilities and staff for viewing;
136 9. Use of facilities and staff for funeral
137 ceremony;
138 10. Use of facilities and staff for memorial
139 service;
140 11. Use of equipment and staff for graveside
141 service;
142 12. Hearse; and
143 13. Limousine.
144 (iii) Include on the price list, in any order, the
145 following information:
146 1. Either of the following:
147 a. The price range for the caskets
148 offered by the funeral provider, together with the statement: "A
149 complete price list will be provided at the funeral home."; or
150 b. The prices of individual caskets,
151 disclosed in the manner specified by subparagraph (3)(b)(i) of
152 this section; and
153 2. Either of the following:
154 a. The price range for the outer burial
155 containers offered by the funeral provider, together with the
156 statement: "A complete price list will be provided at the funeral
157 home."; or



158 b. The prices of individual outer burial
159 containers, disclosed in the manner specified by subparagraph
160 (3)(c)(i) of this section; and

161 3. Either of the following:

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

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

187 (iv) The services fee permitted by subparagraph
188 (3)(d)(iii)3.a. or subparagraph (3)(d)(iii)3.b. of this section is
189 the only funeral provider fee for services, facilities or



190 unallocated overhead permitted by this part to be nondeclinable,
191 unless otherwise required by law.

192 c. Statement of funeral goods and
193 services selected.

194 (I) Give an itemized written
195 statement for retention to each person who arranges a funeral or
196 other disposition of human remains, at the conclusion of the
197 discussion of arrangements. The statement must list at least the
198 following information:

199 A. The funeral goods and
200 funeral services selected by that person and the prices to be paid
201 for each of them;

202 B. Specifically itemized cash
203 advance items. (These prices must be given to the extent then
204 known or reasonably ascertainable. If the prices are not known or
205 reasonably ascertainable, a good faith estimate shall be given and
206 a written statement of the actual charges shall be provided before
207 the final bill is paid.); and

208 C. The total cost of the goods
209 and services selected.

210 (II) The information required by
211 this subparagraph may be included on any contract, statement, or
212 other document which the funeral provider would otherwise provide
213 at the conclusion of discussion of arrangements.

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

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

