

By: Representative Banks

To: Public Health and Human Services

HOUSE BILL NO. 1297

1 AN ACT TO AMEND SECTION 73-11-51, MISSISSIPPI CODE OF 1972,
2 TO REQUIRE THE REGISTRATION OF SELLERS OF PRENEED FUNERAL SERVICES
3 WITH THE STATE BOARD OF FUNERAL SERVICE; TO AMEND SECTION
4 75-63-65, MISSISSIPPI CODE OF 1972, IN CONFORMITY THERETO; AND FOR
5 RELATED PURPOSES.

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

7 **SECTION 1.** Section 73-11-51, Mississippi Code of 1972, is
8 amended as follows:

9 73-11-51. (1) No person shall engage in the business or
10 practice of funeral service, including embalming, and/or funeral
11 directing or hold himself out as transacting or practicing or
12 being entitled to transact or practice funeral service, including
13 embalming, and/or funeral directing in this state unless duly
14 licensed under the provisions of this chapter.

15 (2) The board is authorized and empowered to examine
16 applicants for licenses for the practice of funeral service and
17 funeral directing and shall issue the proper license to those
18 persons who successfully pass the applicable examination and
19 otherwise comply with the provisions of this chapter.

20 (3) To be licensed for the practice of funeral directing
21 under this chapter, a person must:

22 (a) Be at least eighteen (18) years of age;

23 (b) Have a high school diploma or the equivalent
24 thereof;

25 (c) Have served as a resident trainee for not less than
26 twenty-four (24) months under the supervision of a person licensed
27 for the practice of funeral service or funeral directing in this
28 state;

29 (d) Have successfully passed a written and/or oral
30 examination as prepared or approved by the board; and

31 (e) Be of good moral character.

32 (4) To be licensed for the practice of funeral service under
33 this chapter, a person must:

34 (a) Be at least eighteen (18) years of age;

35 (b) Have a high school diploma or the equivalent
36 thereof;

37 (c) Have successfully completed twelve (12) months or
38 more of academic and professional instruction from an institution
39 accredited by the United States Department of Education for
40 funeral service education and have a certificate of completion
41 from an institution accredited by the American Board of Funeral
42 Service Education or any other successor recognized by the United
43 States Department of Education for funeral service education;

44 (d) Have served as a resident trainee for not less than
45 twelve (12) months, either before or after graduation from an
46 accredited institution mentioned above, under the supervision of a
47 person licensed for the practice of funeral service in this state
48 and in an establishment licensed in this state;

49 (e) Have successfully passed the National Conference of
50 Funeral Examiners examination as approved by the board; and

51 (f) Be of good moral character.

52 (5) All applications for examination and license for the
53 practice of funeral service or funeral directing shall be upon
54 forms furnished by the board and shall be accompanied by an
55 examination fee, a licensing fee and a nonrefundable application
56 fee in amounts fixed by the board in accordance with Section
57 73-11-56. The fee for an initial license, however, may be
58 prorated in proportion to the period of time from the date of
59 issuance to the date of biennial license renewal prescribed in
60 subsection (8) of this section. All applications for examination
61 shall be filed with the board office at least sixty (60) days

62 before the date of examination. A candidate shall be deemed to
63 have abandoned the application for examination if he does not
64 appear on the scheduled date of examination unless such failure to
65 appear has been approved by the board.

66 (6) The practice of funeral service or funeral directing
67 must be engaged in at a licensed funeral establishment, at least
68 one (1) of which is listed as the licensee's place of business;
69 and no person, partnership, corporation, association or other
70 organization shall open or maintain a funeral establishment at
71 which to engage in or conduct or hold himself or itself out as
72 engaging in the practice of funeral service or funeral directing
73 until such establishment has complied with the licensing
74 requirements of this chapter. A license for the practice of
75 funeral service or funeral directing shall be used only at
76 licensed funeral establishments; however, this provision shall not
77 prevent a person licensed for the practice of funeral service or
78 funeral directing from conducting a funeral service at a church, a
79 residence, public hall, lodge room or cemetery chapel, if such
80 person maintains a fixed licensed funeral establishment of his own
81 or is in the employ of or an agent of a licensed funeral
82 establishment.

83 (7) Any person holding a valid, unrevoked and unexpired
84 nonreciprocal license in another state or territory having
85 requirements greater than or equal to those of this state as
86 determined by the board may apply for a license to practice in
87 this state by filing with the board a certified statement from the
88 secretary of the licensing board of the state or territory in
89 which the applicant holds his license certifying to his
90 qualifications and good standing with that board by having
91 successfully passed a written and/or oral examination on the
92 Mississippi Funeral Service licensing law and rules and
93 regulations as prepared or approved by the board, and by paying a
94 nonrefundable application fee set by the board under Section

95 73-11-56. If the board finds that the applicant has fulfilled
96 substantially similar requirements, the board shall grant such
97 license upon receipt of a fee in an amount equal to the renewal
98 fee set by the board for a license for the practice of funeral
99 service or funeral directing, as the case may be, in this state.
100 The board may issue a temporary funeral service or funeral
101 directing work permit before a license is granted, before the next
102 regular meeting of the board, if the applicant for a reciprocal
103 license has complied with all requirements, rules and regulations
104 of the board. The temporary permit will expire at the next
105 regular meeting of the board.

106 (8) (a) Any person holding a license for the practice of
107 funeral service or funeral directing may have the same renewed for
108 a period of two (2) years by making and filing with the board an
109 application on or before the due date. Payment of the renewal fee
110 shall be in an amount set by the board in accordance with Section
111 73-11-56. The board shall mail the notice of renewal and the due
112 date for the payment of the renewal fee to the last known address
113 of each licensee at least thirty (30) days before that date. It
114 is the responsibility of the licensee to notify the board in
115 writing of any change of address. An application will be
116 considered late if the application and proper fees are not in the
117 board's office or postmarked by the due date.

118 (b) If the renewal fee is not paid on or postmarked by
119 the due date, the license of such person shall by operation of law
120 automatically expire and become void without further action of the
121 board. The board may reinstate such license if application for
122 licensure is made within a period of five (5) years, upon payment
123 of the renewal fee for the current year, all renewal fees in
124 arrears, and a reinstatement fee. After a period of five (5)
125 years, the licensee must make application, pay the current renewal
126 fee, all fees in arrears, and pass a written and/or oral
127 examination as prepared or approved by the board.

128 (9) No license shall be assignable or valid for any person
129 other than the original licensee.

130 (10) The board may, in its discretion, if there is a major
131 disaster or emergency where human death is likely to occur,
132 temporarily authorize the practice of funeral directing and
133 funeral service by persons licensed to practice in another state
134 but not licensed to practice in this state, provided that such
135 services are only rendered by members of disaster mortuary teams
136 authorized by federal or appropriate local authorities to provide
137 such services. Only persons licensed in this state, however, may
138 sign death certificates.

139 (11) A person who is licensed for the practice of funeral
140 service by another state is authorized to make a removal of a
141 deceased person, embalm a deceased person or conduct a funeral or
142 burial service in this state, and a funeral director who is
143 licensed by another state is authorized to conduct a funeral or
144 burial service in this state, in the same manner and to the same
145 extent as provided by the laws of that state to persons licensed
146 by the State of Mississippi for the practice of funeral service or
147 for the practice of funeral directing. The board is authorized to
148 enter into written agreements with those states detailing the
149 manner and extent to which persons licensed by the State of
150 Mississippi may practice funeral service or directing in that
151 state.

152 (12) Any funeral service technology or mortuary science
153 program accredited by the American Board of Funeral Service
154 Education in the State of Mississippi, as well as students
155 enrolled in such a program, shall be exempt from licensing under
156 this chapter when embalming or otherwise preparing a deceased
157 human body for disposition as part of a student practicum
158 experience, when the student is directly supervised by an
159 instructor or preceptor who holds a current funeral service
160 license. This exemption shall apply to practicum experiences

161 performed at an accredited institution of funeral service
162 technology or mortuary science program or at a duly licensed
163 funeral establishment or commercial mortuary service. Nothing in
164 this subsection shall be construed to allow any funeral service
165 technology or mortuary science program, or those students enrolled
166 in such a program, to engage in practicum experiences for
167 remuneration.

168 (13) Each application or filing made under this section
169 shall include the social security number(s) of the applicant in
170 accordance with Section 93-11-64.

171 (14) All sellers of preneed funeral services shall register
172 with the board and pay a registration fee of Twenty-five Dollars
173 (\$25.00) every two (2) years to be eligible to conduct business in
174 the State of Mississippi. Any person, firm, corporation or other
175 entity who does not register and pay the registration fee shall be
176 guilty of a misdemeanor and, upon conviction, shall be fined One
177 Thousand Dollars (\$1,000.00). All registered sellers of preneed
178 funeral services must have a contract with a licensed funeral
179 establishment at a specified price in order to provide such
180 services, and copies of such contracts shall be provided to the
181 board. For the purposes of this subsection, "preneed funeral
182 services" means a contract or agreement for the arrangement for
183 the disposition of dead human bodies, including, but not limited
184 to, the sale of caskets, vaults, clothing, urns and any necessary
185 services related thereto.

186 **SECTION 2.** Section 75-63-65, Mississippi Code of 1972, is
187 amended as follows:

188 75-63-65. (1) Any establishment or organization which
189 engages in the business of selling preneed merchandise and/or
190 services shall register with the Secretary of State and shall pay
191 a registration fee. A separate registration is required for each
192 separate corporation or business entity. The establishment or
193 organization shall pay to the Secretary of State for the

194 registration of the main establishment or organization a fee of
195 Two Hundred Fifty Dollars (\$250.00).

196 (2) Any person who engages in the business of selling
197 preneed contracts shall register with the Secretary of State.

198 (3) The Secretary of State shall establish regulations to
199 register each establishment or organization selling preneed
200 merchandise or services. No establishment or organization shall
201 be registered to sell preneed merchandise or services that the
202 establishment or organization cannot lawfully provide at the time
203 of a person's death. The Secretary of State shall also maintain a
204 record of all individuals who are registered to sell preneed
205 merchandise or services through the registered establishment.

206 (4) The Secretary of State shall establish regulations to
207 register each person selling preneed contracts, including the
208 establishment through which the seller will be selling. No person
209 shall be registered to sell preneed contracts without indicating
210 the establishment for which he or she is selling.

211 (5) The Secretary of State shall develop and furnish the
212 forms necessary for the registration of establishments and
213 individuals selling preneed contracts.

214 (6) In addition to the requirements herein, all sellers of
215 preneed funeral services shall register with the State Board of
216 Funeral Service of the State of Mississippi as required in Section
217 73-11-51(14).

218 **SECTION 3.** This act shall take effect and be in force from
219 and after July 1, 2007.