

Regular Session, 2010

SENATE BILL NO. 403

BY SENATOR RISER

COMMERCIAL REGULATIONS. Provides relative to funeral goods or services offered to the public. (8/15/10)

1 AN ACT

2 To amend and reenact R.S. 37:831(11), (40), and (73), the introductory paragraph of 846(A),  
3 and 846(A)(2) and (3), relative to embalmers and funeral directors; to provide for  
4 definitions; to provide with respect to the granting or renewal licenses; to provide for  
5 sanctions; to provide for permissible activities; and to provide for related matters.

6 Be it enacted by the Legislature of Louisiana:

7 Section 1. R.S. 37:831(11), (40), and (73), the introductory paragraph of 846(A), and  
8 846(A)(2) and (3) are hereby amended and reenacted to read as follows:

9 §831. Definitions

10 For purposes of this Chapter and implementation thereof, the following terms  
11 shall have the meaning as defined herein, unless the context clearly indicates  
12 otherwise:

13 \* \* \*

14 (11) "Capper", ~~or "steerer",~~ or "runner" means ~~any business agent or other~~  
15 ~~a~~ person who attempts to deceive, delude, trick, cheat, swindle, defraud, or mislead  
16 for monetary gain or other considerations, procures or attempts to procure  
17 business at the direction of, request of, or in cooperation with a licensee by

1 means of deceit, trick, fraud, or misleading statements.

2 \* \* \*

3 (40) "Funeral goods and services" means any one or more of the following  
4 goods or services:

5 (i) Goods which are sold or offered for sale directly to the public for use in  
6 connection with funeral services.

7 (ii) ~~and a~~ Any services which may be used to care for ~~and~~ or prepare  
8 deceased human remains for burial, cremation, or other final disposition.

9 (iii) ~~and t~~ To arrange, supervise or conduct the funeral ceremony or the final  
10 disposition of deceased human bodies, ~~including, but not limited to,~~

11 (iv) Funeral merchandise.

12 \* \* \*

13 (73) "Solicitation" means the act or practice of any licensee or any agent,  
14 employee, or person acting on their behalf, of approaching someone a person or  
15 a group of persons making with a request or plea, or to urge someone toward a  
16 particular cause as it may pertain to the care, custody, or disposition of a dead human  
17 body.

18 \* \* \*

19 §846. Refusal to grant or renew licenses; revocation or suspension; grounds;  
20 hearings

21 A. The board may refuse to grant, refuse to renew, impose a sanction or fine  
22 in keeping with the penalty provisions of this Part, or may suspend or revoke, any  
23 license when the applicant or licensee is found guilty of any of the following acts or  
24 omissions:

25 \* \* \*

26 (2) Paying, giving or offering, directly or indirectly, orally or in writing, any  
27 money, credit, discount, gratuity or other thing of value to a third party as an  
28 inducement for the business of a prospective customer; provided that this prohibition  
29 shall not be in any way construed as ~~prohibiting~~ to prohibit any of the following:

1                    **(a) T**he execution or servicing by the parties thereto of any funeral service  
2 contract **or preneed funeral contract** of the type recognized ~~or required~~ by any  
3 provisions of R.S. Title 22 **and R.S. Title 37.**

4                    **(b) A licensee providing promotional pricing that is disclosed on its**  
5 **general price list, including the dollar amount or method of determining the**  
6 **dollar amount of any discount.**

7                    **(c) A licensee providing discounted or free funeral goods or services for**  
8 **infants or a member of an indigent family.**

9                    (3) Solicitation of business, either in person or through agents commonly  
10 known as "cappers" or "steerers." **which is any of the following:**

11                    **(a) Intimidating, overreaching, fraudulent, or misleading.**

12                    **(b) Utilizing undue influence.**

13                    **(c) Taking advantage of a person's lack of knowledge or emotional**  
14 **vulnerability or engaging in any of the following:**

15                    **(i) At-need solicitation of sales of funeral goods and services or funeral**  
16 **or disposition arrangements.**

17                    **(ii) Soliciting, accepting, or paying consideration for recommending a**  
18 **provider of funeral goods and services or disposition arrangements or using the**  
19 **services of cappers, steerers, or runners.**

20                    \*           \*           \*

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The original instrument and the following digest, which constitutes no part  
of the legislative instrument, were prepared by Mary Dozier O'Brien.

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DIGEST

Present law provides definitions for the terms "capper" and "steerer" as a business agent who attempts to deceive, delude, trick, cheat, swindle, defraud, or mislead someone in the context of funeral goods or services.

Proposed law maintains the terms "capper" and "steerer" and adds the term "runner" defining all three as a person who for monetary or other gain procures or attempts to procure business in collusion with a licensed funeral director or embalmer.

Present law defines "solicitation" as the act or practice of approaching someone in order to steer them to obtain funeral goods or services from a particular provider.

Proposed law more particularizes that definition by referring to any agent, employee, or

person acting on behalf of the provider of funeral goods or services.

Present law provides that the board may refuse to grant, refuse to renew, suspend, or revoke the license of a provider of funeral goods or services.

Proposed law includes a sanction or fine in addition to the sanctions listed in present law.

Present law provides that sanctions may be imposed by paying, giving, or offering a thing of value as an inducement for the business of a prospective customer.

Proposed law provides that such thing of value shall be given to a third person.

Present law provides that these provisions shall not prohibit the execution or servicing by the parties of any funeral contract.

Proposed law expands the provisions which shall not be prohibited to include the following:

1. The execution or servicing of a preneed funeral contract.
2. A licensee providing promotional pricing that is clearly disclosed, including the dollar amount of the discount.
3. A licensee providing discounted or free funeral goods or services for infants or other members of an indigent family.

Present law defines "solicitation" in connection with "cappers" and "steerers".

Proposed law broadens the definition of solicitation to include solicitation which is any of the following:

1. Intimidating, overreaching, fraudulent, or misleading.
2. Utilizing undue influence.
3. Taking advantage of a person's lack of knowledge or emotional vulnerability.
4. At-need solicitation.
5. Soliciting, accepting, or paying consideration for recommending a particular provider of funeral goods or services or using the services of cappers, steerers, or runners.

Effective August 15, 2010.

(Amends R.S. 37:831(11), (40), and (73) and 846(A)(intro. para), (2), and (3))