2007 -- H 5473

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S T A T E O F R H O D E I S L A N D

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2007

A N A C T

RELATING TO BUSINESSES AND PROFESSIONS - FUNERAL DIRECTOR/EMBALMER FUNERAL SERVICE ESTABLISHMENTS

Introduced By: Representatives Ginaitt, Lewiss, Ajello, Naughton, and Fox

Date Introduced: February 27, 2007

Referred To: House Judiciary

It is enacted by the General Assembly as follows:

SECTION 1. Section 5-33.2-24 of the General Laws in Chapter 5-33.2 entitled "Funeral Director/Embalmer Funeral Service Establishments" is hereby amended to read as follows:

5-33.2-24. Proper authority for funeral arrangements and disposition of human remains. -- Every licensed funeral director/embalmer, licensed funeral establishment, licensed crematory, and cemetery shall comply with the following rules with respect to proper authority for funeral arrangements and disposition of human remains:

(1) If a licensed funeral establishment is a party to a funeral services contract, as defined in section 5-33.1-2, for the benefit of a deceased person, only when executed by the principal, him or herself and the contract is still in effect at the time of that person's death, the terms of that contract shall control the nature of the funeral goods and services to be provided, the manner in which funeral services are to be conducted for the deceased, and the final disposition of the deceased person's remains to the full extent provided in that contract. When the contract is executed by the principal, him or herself, and specifies cremation as the chosen disposition, the contract is considered sufficient legal authorization for cremation. No licensed funeral establishment, licensed crematory, or cemetery nor any of its agents or employees, may cancel or materially alter any of the arrangements specified in that contract, even if requested to do so by a member of the deceased person's family or a funeral planning agent designated pursuant to chapter 33.3 of this title unless compliance with the terms of the original contract would result in

a violation of any applicable federal, state or local law or regulation, notwithstanding the provisions of this chapter.

(2) To the extent that there is no funeral services contract in effect at the time of death for the benefit of the deceased person, indicating the wishes of the deceased person with respect to the nature of the funeral goods and services to be provided, the manner in which funeral services are to be conducted, or the final disposition of the deceased person's remains, then the funeral establishment and its agents or employees shall follow the directions of the deceased person's survivors, in the following order of priority:

(i) An agent designated pursuant to chapter 33.3 of this title, if any;

(ii) The surviving spouse or domestic partner of the deceased;

(iii) The surviving adult children of the deceased;

(iv) The surviving parent(s) of the deceased;

(v) The surviving brother(s) or sister(s) of the deceased;

(vi) The surviving adult grandchildren of the deceased;

(vii) The surviving adult niece(s) or nephew(s) of the deceased;

(viii) The guardian of the person of the deceased at the time of his or her death.

(3) All licensed funeral directors/embalmers, licensed funeral establishments, licensed crematories, cemeteries, and all their agents and employees shall be held harmless, and shall not be subject to civil suit, either as individual(s), partnership(s), or corporation(s) for complying with the provisions of this chapter.

(4) For purpose of this chapter, "domestic partner" shall be defined as a person who, prior to the decedent's death, was in an exclusive, intimate and committed relationship with the decedent, and who certifies by affidavit that their relationship met the following qualifications:

(i) both partners were at least eighteen (18) years of age and were mentally competent to contract;

(ii) neither partner was married to anyone else;

(iii) partners were not related by blood to a degree which would prohibit marriage in the state of Rhode Island;

(iv) partners resided together and had resided together for at least one year at the time of death; and

(v) partners were financially interdependent as evidenced by at least two (2) of the following:

(a) domestic partnership agreement or relationship contract;

(b) joint mortgage or joint ownership of primary residence;

(c) two (2) of:

(1) joint ownership of motor vehicle;

(2) joint checking account;

(3) joint credit account; and

(4) joint lease; and/or

(d) the domestic partner had been designated as a beneficiary for the decedent's will, retirement contract or life insurance.

SECTION 2. This act shall take effect upon passage.

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EXPLANATION

BY THE LEGISLATIVE COUNCIL

OF

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This act would allow a domestic partner to arrange a funeral with the funeral establishment in the event that the deceased left behind no wishes or funeral services contract.

This act would take effect upon passage.

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