

**TITLE 832 STATE BOARD OF FUNERAL AND CEMETERY SERVICE****Economic Impact Statement**

LSA Document #12-198

**IC 4-22-2.1-5 Statement Concerning Rules Affecting Small Businesses**

The majority of the State Board of Funeral and Cemetery Service rules currently in effect have been unchanged for several years and are out of date when compared with current statutes and industry standards. The proposed rules bring the rules of the board up to date with current statutes and industry standards. The proposed rules also address the renewal fee charged for funeral branches and funeral director interns. The proposed rule addresses the omission of the fees when the rule was last amended. Renewal fees are required by statute with the amount being determined by the board. The proposed rules will create a new requirement to ensure records are kept in a secure manner by requiring records be kept in a vault or fireproof container with a properly certified fire resistant capability of at least one hour, or on a computer readable media, on microfilm, or duplicate copies kept off site. There has been at least one case of arson at a cemetery office that destroyed a large portion of the records. The proposed rules will also require funeral homes to equip their embalming room with one wet hand sanitizer or disinfectant or one dry hand sanitizer. This will be an insignificant cost to the funeral home as wet hand sanitizer may be purchased at any retail establishment at a minimal cost.

The proposed rule changes will not increase or decrease the number of small businesses already affected by the current regulations. The types of small businesses most likely to be affected by the proposed rule are funeral homes, funeral branches, and cemeteries.

Under the proposed rules, antiquated rules affecting small businesses are either repealed or amended as follows:

- Definitions are expanded upon, including what constitutes a change in legal entity. Record keeping requirements are updated to ensure the safety of the records. Requiring a trustee or escrow agent acting as a fiduciary and an insurance company holding preneed funeral funds to verify death and that funeral and burial services are fully performed prior to disbursements of funds. Repeals definitions for cash advance items, contracts, delivery, preneed contracts, preneed services, merchandise, or service of merchandise, purchaser, and seller. Adds direction for sellers who are unable to perform their preneed contract obligations. Adds detailed information regarding what does and does not qualify as unlawful inducement. Adds detailed procedures for filing verified complaints requesting restitution from the preneed consumer protection fund and the cemetery maintenance fund.

**Impact on Small Businesses****1. Estimate of the number of small businesses, classified by industry sector, that will be subject to the proposed rule:**

NAICS CODE 812210	Funeral homes	697
NAICS CODE 812220	Cemeteries and Crematoriums	208

IC 4-22-2.1-4 provides that "small business" means any person, firm, corporation, limited liability company, partnership, or association that:

- (1) is actively engaged in business in Indiana and maintains its principal place of business in Indiana;
- (2) is independently owned and operated;
- (3) employs one hundred (100) or fewer full-time employees; and
- (4) has gross annual receipts of five million dollars (\$5,000,000) or less.

NAICS codes are not assigned to individual practitioners. The following is the number of current licenses:

Funeral Directors	1,775
Embalmers	17
Funeral Director Interns	60

TOTAL:	1,852
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**2. Estimate of the average annual reporting, record keeping, and other administrative costs that small business will incur to comply with the proposed rule.**

The proposed funeral branch license fee that is already being paid per statute will not impose any additional cost on the funeral branch.

The proposed courtesy card issuance and renewal fee will not affect small businesses in Indiana because it will be collected every two years from non-Indiana residents practicing funeral service in Kentucky that will need to cross into Indiana for limited practice under IC 25-15-10-4. The fee must be sufficient to cover the cost of issuing the card and be consistent with the fees of bordering states that issue courtesy cards. Currently, Kentucky

is the only other bordering state that issues a courtesy card. Kentucky will charge Indiana funeral directors \$75 per year for a Kentucky courtesy card.

The proposed rule requires records be kept in a secure manner using a vault or fireproof container with a properly certified fire resistant capability of at least one hour, a computer readable media backed up by a diskette, optical disk, or tape, microfilm backed up by a security roll, or duplicate copy of the records that are stored at an off-site location. The proposed rule offers a variety of minimal cost options for securing records funeral homes and cemeteries are already required to keep.

### **3. Estimate of the total annual economic impact that compliance with the proposed rule will have on all small businesses subject to the rule.**

The proposed funeral branch license fee that is already being paid per statute will not impose any additional cost on the funeral branch.

Proposed record keeping requirements costs will vary widely based on the method the funeral home chooses and the number of records they maintain.

In one example, a funeral home maintains their records on computer backed up with a diskette. If all 697 funeral homes used a diskette to back up their records annually, the estimated cost per year would be:

$\$0.20 \times 697 \text{ licensees} = \$139.40 \text{ per year.}$

The proposed rule requiring wet or dry hand sanitizer would apply only to funeral homes with embalming rooms. Currently there are 633 funeral homes with embalming rooms. The estimated cost per year for two liter bottles of wet hand sanitizer purchased on average four times per year would be:

$(\$6.98 \times 4) \times 633 \text{ funeral homes} = \$17,673.36 (\$28 \text{ a year for each funeral home})$

The proposed rule will not significantly increase the expense to these licensees.

### **4. Statement justifying any requirement or cost that is imposed on small businesses by the rule; or any other state or federal law.**

To prevent the spread of bacterial and viral infections, it is necessary to sanitize hands after handling a dead human body. Products that sanitize on contact are more effective than soap and water alone.

The proposed rules will ensure records are kept in a secure manner so that families of loved ones that have passed away will not incur additional costs due to lost or destroyed records.

### **5. Regulatory flexibility analysis**

#### **Consideration of alternative methods of achieving the purpose of the proposed rule**

The purpose of the proposed rule is to update funeral and cemetery regulations to comply with current industry standards and procedures and to safeguard consumers that place funds in trust with funeral homes. The Funeral and Cemetery Board has worked diligently to ensure that the proposed rules provide the required regulations at the lowest cost to consumers and small businesses.

#### **Conclusion**

The Funeral and Cemetery Board has not updated their rules in several years. The proposed rules are necessary to comply with current industry standards and procedures and to safeguard the public. The Occupational Safety and Health Administration (OSHA) enforces workplace safety regulations that affect funeral homes. OSHA has classified formaldehyde as a hazardous chemical. The proposed rules utilize information from OSHA to ensure sanitation and proper disposal of waste material from embalming rooms.

#### **Supporting Data, Studies, or Analyses**

Hazard Communication Standard, Formaldehyde Standard, and Bloodborne Pathogens:

<http://www.osha.gov>

Computer diskettes:

[www.staples.com](http://www.staples.com)

Wet sanitizer:

[www.samsclub.com](http://www.samsclub.com)

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