



Ohio Funeral Directors Association

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May 19, 2022

Dear Chairman Johnson,

On behalf of the Ohio Funeral Directors Association (OFDA) and our nearly 1,000 funeral homes across Ohio, we strongly urge adoption of an amendment (AM 3145) to Senate Bill 131, legislation in your committee dealing with license reciprocity. We have crafted this amendment to exempt funeral homes and embalmers from the bill's reciprocity requirements, but also included language to improve the current process by helping those from out-of-state who seek Ohio licensure. **While this bill is well-intended, without this amendment, the bill would create an incredible hardship for thousands of funeral directors in our state because of how we interact with the U.S. Department of Labor and have the unintended consequence of significantly increasing costs for Ohio's consumers.**

For nearly 40 years, Ohio's funeral licensing law has required a bachelor's degree in order to be licensed as a funeral director and/or embalmer – *this is a requirement we support*. In addition to the minimum requirement of a bachelor's degree, Ohio also requires an applicant for an embalmer's license to complete a mortuary science program from an accredited mortuary school, pass the National Board Exam, and complete a one-year internship with an Ohio funeral home.

Funeral licensing laws vary widely throughout the United States. **In eight states, including the border state of Kentucky, an individual may be licensed as a funeral director with no more than a high school education.** Therefore, SB 131 would provide a foolproof method for an individual with no post-secondary education to sidestep Ohio's comprehensive licensing requirements by simply serving their apprenticeship and obtaining one year of experience in Kentucky and then qualifying for full licensure as an Ohio funeral director. **If SB 131 is enacted into Ohio law in its current form, this will become the simple workaround for those applicants who want to avoid Ohio's higher educational and training requirements.**

Additionally, of equal importance, because of Ohio's four-year post-secondary education requirement, the U.S. Department of Labor (DOL) has recognized that funeral directors and embalmers in Ohio qualify for the White Collar Exemption under the federal Wage and Hour laws (69 Fed. Reg. 22155 (4/23/2004)). This allows funeral licensees in Ohio to be paid a salary instead of an hourly wage and time-and-a-half overtime pay as required by federal Wage and Hour laws.

This exemption is extremely valuable to funeral homes because their workload varies greatly from week-to-week depending upon demand. Having the ability to pay licensees a set salary instead of hourly wages that fluctuate on a weekly basis allows funeral homes to have stable budgets. It also protects employees by giving them a guaranteed salary even when there are downturns at the funeral home.

The availability of the White Collar Exemption to Ohio's 1,000 funeral homes also relieves them from significant governmental regulation and administrative headaches when compensating licensees. Over the past 20 years, Ohio funeral homes have avoided a multitude of Fair Labor Standards Act lawsuits as a direct result of the White-Collar Exemption.

OFDA respectfully requests the inclusion of the attached amendment (AM 3145) which would exempt funeral directors and embalmers from the bill's reciprocity requirements **but also** requires our state board to issue

licenses to individuals whose experience and/or education requirements are substantially equal to Ohio. This amendment will improve upon the current licensure process without sacrificing our extraordinarily important White Collar exemption granted to our industry under federal law.

We sincerely appreciate the efforts of Senators McColley and Roegner in trying to streamline licensure requirements in the State of Ohio – it is a very worthy goal. However, as noted in their sponsor testimony from May 19, 2021, which referenced a 2015 national report on state licensure, state’s “*should adopt institutional reforms that promote a more careful and individualized approach to occupational regulation that takes into account its costs and benefits...*” **We could not agree more.**

If SB 131 is passed in its current form, without our amendment, the White Collar Exemption provided for Ohio funeral licensees will be in jeopardy; it will open the door to legal challenges in the courts by disgruntled employees and by the U.S. Department of Labor. Our funeral homes will also suffer do the increased cost to do business, which we fear will be widespread and will ultimately negatively impact Ohio’s consumers.

Sincerely,



Melissa Sullivan
Executive Director
Ohio Funeral Directors Association



Andrew Allman
Incoming Executive Director
Ohio Funeral Directors Association

CC: Ohio Senate President Matt Huffman
Senator Kristina Roegner
Senator Rob McColley
Members of the Ohio Senate Workforce & Higher Education Committee
Michael Dittoe, High Bridge Consulting, Lobbyist for OFDA
David Ingram, Chief Legal Counsel for OFDA