

TITLE 22 EXAMINING BOARDS

Part 10 Texas Funeral Service Commission

Chapter 203 Licensing and Enforcement - Specific Substantive Rules

Subchapter B. Duties of a Funeral Establishment/Licensee

Proposal to Amend Title 22 Texas Administrative Code <*> 203.24 – Display of License

The Texas Funeral Service Commission (Commission) proposes to amend Title 22 Texas Administrative Code <*> 203.24 – Display of License. The rule currently requires licenses issued by the Commission to be originals on display or available for inspection. Requiring original licenses protects the public by allowing them to ensure the person with whom they are interacting is licensed. The Commission believes a copy of the license could be altered to deceive the public.

However, since the rule has been implemented, the Commission has been made aware of situations where funeral homes need to employ contract funeral directors and embalmers. This occurs when the regular funeral directors or embalmers employed by the funeral home cannot be present – emergencies, vacations, weekends. Requiring the original license of a temporary employee to be displayed can be problematic for funeral homes.

The Commission has determined in these instances a copy of the funeral director and/or embalmer license who worked on a case is acceptable. Under this rule change, the copy of the license must be maintained in the funeral establishment for inspection.

Janice McCoy, Executive Director, has determined for the first five-year period the amendment is in effect there will be no fiscal implications for state or local governments, or local economies.

Ms. McCoy has determined there will be no adverse economic effect on small businesses or micro-businesses required to comply with the amendment, as proposed.

There is no anticipated economic cost to individuals who are required to comply with the amendment, as proposed. There is no anticipated negative impact on local employment.

In addition, Ms. McCoy has determined for the first five-year period the amendment is in effect, the public benefit anticipated as a result of the amendment will be the Commission and consumers will be able to ensure only licensed funeral directors and embalmers are providing funeral services.

The Commission has determined Chapter 2007 of the Texas Government Code does not apply to this proposal. Accordingly, the Commission is not required to complete a takings impact assessment regarding this proposal.

Comments on the proposal may be submitted in writing to Mr. Kyle Smith at PO Box 12217, Capitol Station, Austin, Texas 78711-1440, 512-479-5064 (fax) or electronically to info@tfsc.texas.gov. Comments must be received no later than thirty (30) days from the date of publication of this proposal.

This proposal is made pursuant to Texas Occupations Code <*> 651.152, which authorizes the Texas Funeral Service Commission to adopt rules considered necessary for carrying out the Commission's work, and Texas Occupations Code <*> 651.261, which requires license holders to conspicuously display their licenses at each workplace.

No other statutes, articles, or codes are affected by this section.

<*> 203.24 – Display of License

(a) The funeral establishment license shall be conspicuously displayed in an area of the establishment open and accessible to the general public.

(b) If a license holder is in contact with the public during the course of his or her job, the funeral establishment shall conspicuously display the holder's license in each place of business at which the license holder practices.

(c) If a license holder is not in contact with the public during the course of his or her job, the funeral establishment shall make the license available for inspection in each place of business at which the license holder practices.

(d) A license is conspicuously displayed when it is placed in an area of the funeral establishment generally accessed by a consumer making funeral arrangements.

(e) The displayed license must be an original license issued by the Commission.

(f) In the event the license holder who assists the public and/or embalms a dead human body is not a regular full or part time employee of the funeral establishment, the funeral establishment shall maintain a copy of the license holder's original license for inspection by a customer or prospective customer. The copy of the license holder's original license shall be maintained for a period of two years after the temporary employment occurred.

(g) If a regular full or part time employee is no longer employed by the funeral establishment, the funeral establishment shall maintain a copy of the license holder's original license for a period of two years after the employment ends.

The agency certifies legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.