

**Dedicated to protecting
a consumer's right to choose
a meaningful, dignified,
and affordable funeral**

Everything you always wanted to know about buying a retail casket

Want to know your rights when buying a casket from outside a funeral home? Are you curious to know what funeral homes are allowed to do, and what they're not allowed to do, when it comes to third-party caskets?

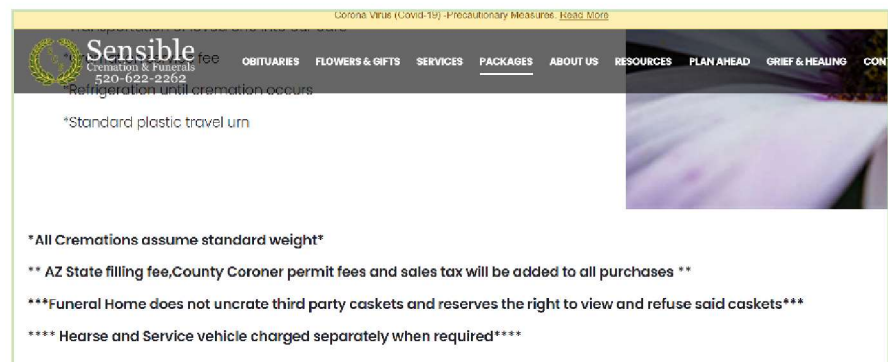
This article is for you. Dealing with third-party caskets is one of the common questions we get. Consumers, FCA volunteers, and retail casket-sellers frequently ask for advice about it.

The Basics

Under the Federal Trade Commission's "Funeral Rule" consumers have a right to buy a casket from outside the funeral home. In turn, funeral homes are not allowed to charge a "handling fee" for accepting outside merchandise.

The Rule, bolstered by the FTC staff advisory opinions*, also says:

-Funeral homes may not charge a fee to store a third-party casket ahead of an "at-



-Funeral homes may not require the customer to be physically present when the casket is delivered

-Funeral homes may not refuse to sign a delivery receipt for third-party caskets

need" funeral (this means a funeral that's going to occur in the immediate future)

-Funeral homes may not charge customers a fee to dispose of the packaging material surrounding third-party caskets

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-Funeral homes may not refuse the use of their equipment—such as a gurney called a “church truck”—to move the third-party casket

It’s also illegal for funeral homes to simply refuse an outside casket (example below).

How to Know if a Funeral Home’s Actions are Legal

Pay close attention to this section. It will show you how to use one principle to find out whether a funeral home’s treatment of third-party caskets is legal. Once you understand this principle, you won’t need to ask for special advice on a case-by-case basis.

The Funeral Rule requires funeral homes to accept third-party caskets, and to treat them in the same manner they treat caskets that the funeral home buys wholesale and sells itself.

Here’s an example. Johnson Funeral Home has a rule for customers that says the funeral home will only accept delivery of third-party caskets between the hours of 10 am

and 3 pm.

Is this legal or not? Here’s how to know.

-If the funeral home applies the same rule and hours to its own wholesale casket suppliers (such as Batesville or Matthews), then it is perfectly legal.

-But, if the funeral home applies this rule only to third-party caskets, but it will accept a casket from a wholesaler at any time, then the funeral home’s rule is illegal.

This applies to almost every situation you can imagine with regard to caskets. Delivery times, signatures on forms, etc.

The difficulty is that it’s hard or impossible to prove whether the funeral home applies this rule equally. There are many instances when we strongly suspect they do not, but proving this isn’t usually possible.

The Workarounds

As you’d expect, some funeral homes try to find ways to bend the rules. Unfortunately, these examples below are legal. There is no regulation you can appeal to under the FTC that will stop a funeral home from performing these:

-Inflating the itemized price of services, then low-balling the price on those services when they’re in a package that includes a casket. This defeats the Funeral Rule’s aim to stop mortuaries from charging “handling fees.” For example, say you want services that total \$3,000 when bought item by item. Say you also buy a third-party casket. The funeral home shows you a package of all the services you want for only \$2,000. But the catch is

you have to buy the funeral home’s casket.

-Refusing to allow use of the funeral home’s trash facility/Dumpster to dispose of the packaging surrounding the third-party casket.

-Refusing to help unload a third-party casket from a delivery truck. We’ve seen many examples of this. The FTC has advised that the Commission will not force funeral homes to “pay the labor cost associated with unloading a third-party casket and removing its packaging.”

Scott Ginsberg is with Titan Casket, a growing discount retailer that ships anywhere in the US. Ginsberg and his colleagues have come to FCA many times for help with funeral homes that make it difficult for customers to use Titan’s caskets.

He says he’s frustrated with the minority of funeral homes that make the process harder for his customers.

“The bottom line is this: The funeral home should just be there,” said Ginsberg. “They should just bend over backwards to help someone on the worst day of their lives.”

Ginsberg said the great majority of funeral homes treat his customers well; it’s about “two percent” who don’t. But that minority can frustrate a family on a very bad day.

Informed consumers will have a better experience, he says, and they’ll save money.

“The key to savings is education,” Ginsberg said. “Don’t make an emotional loss into a financial loss.

Real-World Examples

Look at the graphic on the front page of this newsletter:

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“Funeral home does not uncrate third-party caskets and reserves the right to view and refuse said caskets.”

They do have the right not to help unload the casket, but they do not have the legal right to “refuse” the casket. That’s a direct violation of the Funeral Rule.

A casket seller sent us another casket-acceptance policy from a funeral home in Wisconsin. It’s an entire page, so we’ll summarize it.

—Caskets are only accepted 8 am to 4 pm on weekdays, 9 am to 2 pm on Sundays.

Legal? Yes, if they apply the same policy to their own casket wholesale companies they buy from.

—Casket must arrive at least 24 hours before the viewing.

Legal? Yes, and also reasonable.

—The customer (the family) will have to help the shipper unload the casket; funeral home staff won’t help.

Legal? Yes, but unkind.

—“Our building is not available to people who are waiting for their shipper to arrive.”

Legal? That’s unclear. The FTC might rule that refusing to let customers come in out of the rain puts an unreasonable burden on a consumer’s choice to buy a third-party casket. It’s certainly consumer-hostile.

—The customer family will have to uncrate the casket. The funeral home won’t provide any tools or assistance.

Legal? Probably illegal, based on the FTC’s stated view that refusing the use of equipment is an unreasonable burden on consumers.

—“While uncrating a casket, the purchaser will need to do so in our parking lot preferably out of the public’s view. The purchaser will not be allowed to uncrate the casket in our building.”

Legal? Unclear. But the funeral home is making it obvious to consumers that they are hostile to outside caskets, they don’t think well of their customers who buy them, and they’re not going to make it easy. It would be interesting to see how the FTC would rule on the totality of this page-long list of rules.

*The online version of this article includes links to the FTC staff opinions. To find it, follow this chain: [funerals.org-->news/blog-->scroll](#) to the article titled “Retail caskets: what’s legal for a

Advocacy Updates

Federal Trade Commission Funeral Rule Review

In 2020, we submitted commentary to the FTC along with almost 800 consumers and educational organizations. We asked for changes to the Rule including a mandate for funeral homes to put their complete price lists on their website, to clarify consumer disclosure language, and more.

In June, it will be two years since the FTC opened the Rule for review. We hope to hear by then what, if anything, the FTC intends to change. As soon as we do, we will alert you to the next steps.

Embalming in the Granite State

By the time you read this, we hope to report that House Bill 1320 has passed and become law. The bill, sponsored by NH senator Jerry Knirk, would eliminate an unnecessary and ambiguous part of state law.

“No dead human body shall be exposed to the public for a period in excess of 24 hours unless said body is properly embalmed.”

Unfortunately, some New Hampshire funeral homes have interpreted it to mean the body has to be embalmed if more than a day has passed since death, if anyone from “the public” sees it. This is causing families to pay for embalming under the belief that state laws require it.

FCA executive director Josh Slocum traveled to the NH legislature twice during the winter to testify in support of repealing the law.

A compromise amendment is being negotiated as this newsletter is written. We’re confident that it will get rid of the vague language, and clarify that state law does not require embalming as a condition of viewing the body. The amendment will also clarify that this law has no jurisdiction over private family funerals in the home.

Thank you again—**your** gifts made this advocacy possible!

Want to run a green cemetery?

Panorama Farms in Albemarle County, Virginia, is looking for a cemetery manager on land steward to launch and operate a green burial ground. Find the complete job description, at <https://www.panoramafarms.com/natural-burial-ground>.

Your gifts solve real problems for real people

You are solving real problems in real time for real people. When you make a gift to FCA, you're making a gift to a family in grief who needs help with something that feels overwhelming.

Your check doesn't just disappear into the accounting records—it becomes a solution for a family like yours.

While FCA does "big picture" policy work with your gifts, your generosity also helps people at the personal level.

Earlier we told you about Danielle, whose mother had a life insurance policy with enough to cover her funeral and burial. Or, so Danielle thought, until she was sitting in a conference room at the funeral home/cemetery business.

"The funeral home is encouraging me to sign a contract to lock in the prices. This would entail a 10% down payment and a



monthly payment. Is this advisable? I don't want to miss an opportunity to save but I don't want to potentially lock myself into a mistake."

What Danielle did not know was that she didn't have to use the (very expensive) funeral home that sat on the cemetery grounds where Mom had

already bought a grave. This is a common oversight for families.

Your gifts allowed us to walk Danielle through the family's options and budget. Here's what she had to say.

"I wanted to follow up to share the outcome of mom's funeral. Thanks to your advice, I researched reputable, family-owned funeral homes near the cemetery, and I found an excellent one. Mom's service was perfect. The level of customer service was top-notch, and their prices were reasonable. They were even dog-friendly! I will be leaving them an excellent review.

Again, thank you for all of your insight and suggestions!"

The best part? They spent far less than the \$20,000 the family was quoted.

Thank you, supporting readers and members!

FCA Affiliate Websites

FCA of Utah's Joyce Mitchell is working on a guide and template for FCA affiliates to use to improve their websites. If your FCA group hasn't heard from her yet, you will soon.

Joyce is highlighting sites that put the most useful consumer information front and center. Contact her at: joyceinutah@gmail.com

These two FCA affiliates use their homepage to highlight what the majority of consumers want to know. Do first-time callers in your region ask for your newsletter? Do they want to attend your

next board meeting? Probably not often.

Most consumers who call want to find a cheap casket, or money for a funeral, or to know if it's legal to perform a family-directed funeral (it is). Consider re-organizing your website to address the most common queries in as few words as possible.



Choices

Cremation? Burial?



Prices

What funeral homes charge



Cremation

A simple inexpensive option



Green Burial

Eco-friendly options



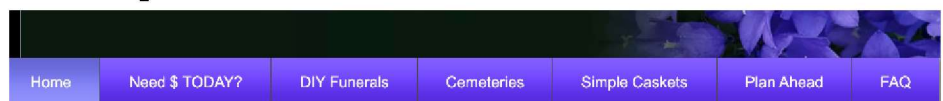
Your Legal

Rights



Why FCA?

Why we're needed



Protecting our right to lay our own to rest

Akhila Murphy and Donna Peizer want to help families who want a more intimate and private funeral. Both retirees in California, they started a small nonprofit called Full Circle of Living and Dying.

The goal was to teach families the lost practice of family-directed funerals. Since the late 19th century, we have outsourced the care of our dead to a professional business class.

Full Circle wants to remind Americans that it's legal and possible to care for our own dead just as we did in the past.

Then came the California Cemetery and Funeral Bureau (CCFB). The agency charged with regulating commercial

**“This is the first case in any court about ‘home funeral guides’ and end-of-life doulas,”
-Institute for Justice**

funeral homes accused Full Circle of practicing funeral directing without a license and ordered them to stop in 2019.

Neither Murphy nor Peizer is a funeral director. They are educators and guides. They ask for donations, but offer free help to those in need. But as with many state regulatory boards, the CCFB seems to be taking its cues

from the industry it regulates. “The funeral directors don’t appreciate competition,” said one CCFB member during a meeting.

“The bureau didn’t enforce this against the doulas because

doulas,” Rowses said.

In December of 2020, the US District Court for the Eastern District of California granted the plaintiffs a preliminary injunction on free speech grounds. That means that

the doulas can continue to speak and educate about home funerals until the case is resolved.

Rowses explained that this case is about economic liberty, but also about free speech. The state wants Murphy and Peizer to stop talking to families unless they build a full funeral facility and apply for a state license.

Family-directed funerals are legal in California, but the state has some unusual ideas about who can attend them.

“California took the position that the doulas couldn’t even [be in a client family’s home] in person if they’re not family,” said Rowses.

As of spring, 2022, the case is still before the court. Rowses said he expected a decision sometime in early summer.

If the doulas win, it will be a victory for both home funeral guides and California families. If they do, and the state appeals, the case will go to the 9th Circuit Court of Appeals. And if the doulas win at this level, the right to educate families about home funerals (yes, even in exchange for money) will be upheld in all states in the 9th Circuit.



anyone actually believes they pose a danger to anyone,” said Jeff Rowses, an attorney with the Institute for Justice.

“What’s actually going on is the doulas are doing their thing, and then somebody makes an anonymous complaint to the CCFB, then

these bureaucratic gears start churning.”

The Institute for Justice (IJ) is suing California on behalf of Murphy and Peizer. IJ is the only national law firm focused on economic liberty, which it sees as part of fundamental American liberties.

“This is the first case in any court about ‘home funeral guides’ and end-of-life

Would you help the widow next door if you could?

You would probably want to help your widowed next-door neighbor if you could, wouldn't you? Maybe you take her trash bins to the curb for her, or check in a few times a week to see if she needs groceries picked up. I bet you wouldn't think to talk to her about affordable funeral planning, though. It's not the sort of thing she'd bring up, and you wouldn't broach the topic yourself.

"I just want a cremation and a memorial service afterward," she said, "But the price I got from our funeral home is a lot higher than I expected."

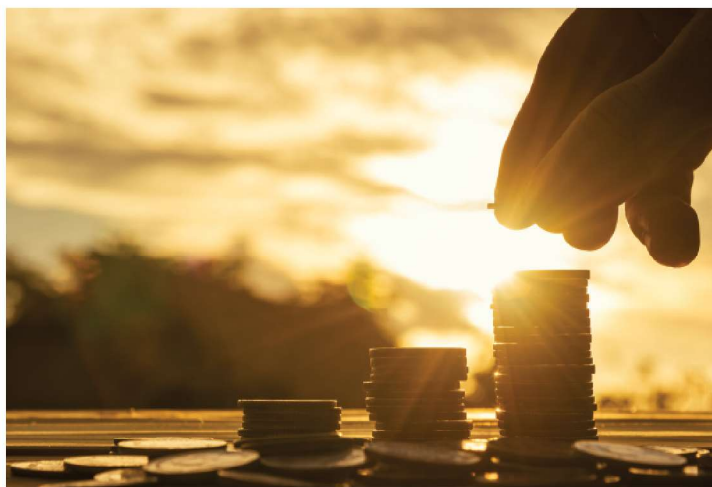
But there are so many 'next-door grandmas' who do actually need help planning final arrangements. They're living on social security and can't afford to take a "money is no object" approach. Most of them don't know there may be more affordable options because the only funeral home most of us think to consult is the same one we've used for every prior family death. They certainly aren't going to ask you if you "know a cheap funeral home."

You can help some of them even though they don't live next-door. How about Patricia? She called from Michigan recently.

"I just want a cremation and a memorial service afterward," she said, "But the price I got from our funeral home is a lot higher than I expected."

You can help someone like Patricia by making a gift. When you do, that financial support turns into a real-live person to answer the phone when she calls. It pays for a comprehensive website with a dedicated consumer section that asks and anticipates every common question from how to find an affordable burial to whether it's a good idea to pay for a funeral in advance.

Patricia and thousands of elderly folks like her need this dollars-and-sense advice from someone who knows how daunting funeral planning can be. You can make sure she gets it!



Your gift will do this good work.

Please make a gift right now using the enclosed reply card to help at least one grieving family!

Or, go online:

www.funerals.org/donate