

WEST VIRGINIA LEGISLATURE

2021 REGULAR SESSION

Introduced

House Bill 3273

BY DELEGATE HAYNES

[Introduced March 16, 2021; Referred to the
Committee on the Judiciary]

1 A BILL to amend and reenact §47-14-10 of the Code of West Virginia, 1931, as amended, relating
2 to allowing telephone solicitation for preneed funeral services.

Be it enacted by the Legislature of West Virginia:

ARTICLE 14. PRENEED FUNERAL CONTRACTS.

§47-14-10. Solicitation.

1 (a) Any contract seller or agent or employee or person acting in behalf of any such person
2 may not:

3 (1) Directly or indirectly call upon individuals or persons in hospitals, rest homes, nursing
4 homes or similar institutions for the purpose of soliciting preneed funeral contracts or making
5 funeral or final disposition arrangements without first having been specifically requested by such
6 person to do so;

7 (2) Directly or indirectly employ any agent, assistant, employee, independent contracting
8 person or any other person to call upon individuals or persons in hospitals, rest homes, nursing
9 homes or similar institutions for the purpose of soliciting preneed funeral contracts or making
10 funeral or final disposition arrangements without first having been specifically requested by such
11 person to do so;

12 (3) Solicit relatives of persons whose death is apparently pending or whose death has
13 recently occurred for the purpose of providing funeral services, final disposition, burial or funeral
14 goods for such person;

15 (4) Solicit or accept or pay any consideration for recommending or causing a dead human
16 body to be provided funeral services and funeral and burial goods by specific persons or the
17 services of a specific crematory, mausoleum or cemetery except where such arrangement is the
18 subject of a preneed funeral contract.

19 ~~(5) Solicit by telephone call or by visit to a personal residence, unless such solicitation has~~
20 ~~been previously requested by the person solicited or by a family member residing at such~~
21 ~~residence~~

22 (b) Notwithstanding any other provision of law to the contrary, nothing in this article shall
23 be construed to restrict the right of a person to lawfully advertise, to use direct mail or otherwise
24 communicate in a manner not within the above prohibition of solicitation or to solicit the business
25 of anyone responding to such communication or otherwise initiating discussion of the goods or
26 services being offered.

27 (c) Nothing herein shall be construed to prohibit general advertising.

28 (d) Anyone making a personal or written solicitation for a preneed funeral contract shall,
29 at the very first instance, divulge the real reason for the contract or solicitation.

30 (e) The division may promulgate legislative rules regulating the solicitation of preneed
31 contracts by certificate holders or registrants to protect the public from solicitation practices which
32 utilize undue influence or which take undue advantage of a person's ignorance or emotional
33 vulnerability.

NOTE: The purpose of this bill is to allow solicitation of preneed funeral services by telephone or home visits.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.