

U.S. Senate - Thursday, November 14, 2002

By Mr. DODD:

S. 3168. A bill to improve funeral home, cemetery, and crematory inspections systems to establish consumer protections relating to funeral service contracts, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. DODD.

Mr. President, I rise today to introduce the Federal Death Care Inspection and Disclosure Act of 2002, a bill which I believe will go a long way in restoring the trust that Americans place in the funeral and death care industries.

None of us like to think about death and dying. It is a painful and uncomfortable subject, and most Americans, understandably, choose not to confront matters related to the death of a loved one until the death actually occurs. And when a loved one does pass on, we turn to our friends and family to grieve. Certainly, the last thing anyone wants to do at such a painful time is to spend hours or days negotiating or shopping for a funeral, casket, or other goods and services. Instead, we leave most of these arrangements in the hands of funeral service providers, turning to them to ensure that our loved ones are cared for and treated with respect and dignity after their passing.

We place a great deal of trust in funeral service providers. A funeral, after all, represents one of the largest purchases many consumers will ever make, just behind a home, college education, and a car. However, unlike these transactions, the purchase of funeral services is most often done under intense emotional duress, with very little time to spare, and without the benefit of the type of consumer information generally available when making such a large purchase. As a result, we trust funeral service providers to give us fair prices, to represent goods and services accurately, and to not take advantage of us during our moments of greatest grief and vulnerability.

For the most part, this trust is well deserved. I have no doubt, that the majority of individuals working in the funeral industry are good men and women who practice their profession with the honor and gravity it demands. However, recent revelations of abuses in the industry have shown us that not all members of the death care industry are honest and upstanding. We all remember hearing, earlier this year of the discovery of over 200 bodies strewn in the woods near a crematorium in Noble, GA. There is also recent evidence of desecration of graves and remains at cemeteries in Florida, California, Hawaii, and my own State of Connecticut. These incidents, as well as developments in the funeral industry as a whole, compel us to reexamine the regulatory structure we currently have in place for this industry.

Currently, the death care industry is regulated by a patchwork of State and local laws. These regulations may have been sufficient years ago, but the character of the industry has changed substantially since many of these laws were passed. The industry has become surprisingly large and diverse. Today, the death care industry generates annual revenues of over \$15 billion and

employ over 104,000 Americans. The 1990s saw the rise of multi-state "consolidators" who purchased local funeral homes across the country. Even for small local firms, the business has become increasingly complex. As more and more Americans travel and live in places far from where they were born, the industry has become one that frequently does business across State and county lines.

There have also been changes in Americans' cultural expectations of funeral services. For example, the percentage of cremations has risen from 5 percent in the 1970s to 25 percent today. However, only 12 States have substantive laws which cover cremation. In fact, in the case in Georgia I mentioned earlier, the crematorium in question was statutorily exempt from inspection, allowing the abuses to continue undiscovered.*S11085

The only significant Federal regulation of the industry exists in the Federal Trade Commission's Funeral Rule, promulgated nearly 20 years ago. Again, this rule has not kept up with the nature of the industry. Perhaps most importantly, the rule does not cover numerous sectors of the industry such as cemeteries, crematories, and casket makers. It also does not effectively regulate prepaid funeral contracts, which have become an increasingly popular option in recent years.

Earlier this year, I chaired a hearing of the Subcommittee on Children and Families in which we examined developments in the industry and how they have impacted American families. Since that hearing, I have worked with both consumer and industry groups to craft legislation to protect Americans from potential abuse by funeral service providers. The Federal Death Care Inspection and Disclosure Act of 2002 would provide Federal funding to allow States to hire and train inspectors and give consumers the right to legal action against those who violate regulatory standards. In order to be eligible for funding, states would have to adhere to standards which are outlined in the legislation. The act would also codify and strengthen the existing FTC regulations governing licensing and registration, recordkeeping, inspection, resolution of consumer complaints, and enforcement of State laws in the industry. It would clarify regulations to prevent deceptive trade practices in the industry and ensure that consumers can make informed decisions as they make funeral arrangements. Finally, the FTC rules would be expanded to cover all segments of the death care industry.

I am aware that as we are in the closing days of this Congress, the Senate will not have the opportunity to consider this legislation this year. However, I would like to take this opportunity to raise this issue with colleagues today in the hope that we will be able to move on this issue when we reconvene for the 108th Congress. This legislation is bipartisan. A House companion bill is being sponsored by Representative FOLEY of Florida. He has been a leader in the effort to ensure that dignity and respect prevail in all aspects of death care services. I look forward to working with him and all of our colleagues in the 108th Congress to advance this same worthy objective.