

SENATE No. 1884

The Commonwealth of Massachusetts

In the Year Two Thousand Nine

An Act Relative to Funeral Processions ..

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Chapter 85 of the General Laws is hereby amended by striking out section
2 14A and inserting in place thereof the following section:-

3 Section 14A. (a) For purposes of this section, the following words shall have the
4 following meanings:-

5 “Funeral directing”, the business, practice or profession, as commonly practiced, of (a)
6 directing or supervising funerals or providing funeral service; (b) handling or encasing, or
7 providing services for handling or encasing, dead human bodies, and preparation of dead human
8 bodies, otherwise than by embalming, for burial or disposal; (c) providing embalming services;
9 (d) providing transportation, interment and disinterment of dead human bodies; and (e)
10 maintaining an establishment so located, constructed and equipped as to permit the decent and
11 sanitary handling of dead human bodies with suitable equipment in such establishment for such
12 handling.

13 “Funeral director”, any person engaged, or holding himself out as engaged, in the
14 business, practice or profession of funeral directing.

15 “Funeral escort”, a person or entity that provides vehicle escort services for funeral
16 processions including, but not limited to, law enforcement personnel.

17 “Funeral escort vehicle”, a vehicle that operated by a funeral escort.

18 “Funeral home”, a “licensed funeral establishment” as defined in regulations of the board
19 of registration in embalming and funeral directing.

20 “Funeral lead vehicle”, any motor vehicle, including a funeral hearse, leading and
21 facilitating the movement of a funeral procession.

22 “Funeral procession”, 2 or more vehicles accompanying the body or the cremated
23 remains of a deceased person, in the daylight hours, including a funeral lead vehicle or a funeral
24 escort vehicle.

25 (b)(1) Operators of vehicles in a funeral procession must exercise due care while
26 driving in a funeral procession. A vehicle in a funeral procession shall follow the preceding
27 vehicle in the funeral procession as closely as is practicable and safe. Any general law,
28 ordinance or regulation requiring that motor vehicles be operated to allow sufficient space
29 between them to enable another vehicle to enter and occupy that space without danger shall not
30 be applicable to vehicles in a funeral procession.

31 (2) The operator of a motor vehicle in a funeral procession may not drive the vehicle at
32 a speed greater than 55 miles per hour on a highway where the posted speed limit is 55 miles per

33 hour or more or greater than 5 miles per hour below the posted speed limit on a street or road that
34 is not a highway.

35 (3) A vehicle being operated in any funeral procession must have its headlights and
36 taillights illuminated.

37 (4) The turn signals must be flashing simultaneously as warning lights on a vehicle that
38 is the first vehicle in a funeral procession and on a vehicle which the operator has reason to
39 believe is the last vehicle in the funeral procession.

40 (c) (1) Except as provided in paragraph (4) of this subsection, pedestrians and operators
41 of all vehicles shall yield the right-of-way to any vehicle which is part of a funeral procession
42 being led by a funeral escort vehicle or a funeral lead vehicle.

43 (2) Whenever the funeral escort vehicle or funeral lead vehicle in a funeral procession
44 lawfully enters an intersection, either by reason of a traffic control device or at the direction of
45 law enforcement personnel, the remaining vehicles in the funeral procession may continue to
46 follow the funeral lead vehicle through the intersection despite any traffic control device, general
47 law or ordinance to the contrary relative to right-of-way, if the operator of each vehicle exercises
48 reasonable care toward other vehicles and any pedestrians on the roadway.

49 (3) Except as provided in paragraph (4) of this subsection, an operator of a funeral
50 escort vehicle may, while exercising due care, direct operators of other vehicles in a funeral
51 procession to proceed through an intersection or to make turns or other movements despite any
52 traffic control device signal to the contrary. Funeral escort vehicles may exceed the speed limit
53 by 10 miles per hour when overtaking the funeral procession in order to arrive at the next
54 intersection ahead of the procession so as to direct the procession through.

55 (4) A funeral procession shall have the right-of-way at intersections regardless of traffic
56 control devices subject to the following conditions and exceptions:

57 (i) operators of vehicles in a funeral procession shall yield the right-of-way to an
58 approaching emergency vehicle emitting an audible siren or flashing emergency lights;

59 (ii) operators of vehicles in a funeral procession shall yield the right-of-way when
60 directed to do so by law enforcement personnel; and

61 (iii) operators of vehicles in a funeral procession must exercise due care when
62 participating in a funeral procession.

63 (d) The operator of a vehicle that is not part of a funeral procession shall not:

64 (1) drive between the vehicles forming a funeral procession while the vehicles are in
65 motion except when authorized to do so by law enforcement personnel or when driving an
66 authorized emergency vehicle emitting an audible siren or flashing emergency lights;

67 (2) join a funeral procession to secure the right-of-way as granted by subsection (c);

68 (3) pass a funeral procession on a multiple lane highway on the funeral procession's
69 right side unless the funeral procession is in the farthest left lane; or

70 (4) enter an intersection, even if the operator is facing a green traffic control signal when
71 a funeral procession is proceeding through a red traffic control signal at the intersection as
72 permitted under subsection (c), unless the operator may do so without crossing the path of the
73 funeral procession. If the red signal changes to green while the funeral procession is within the
74 intersection, the operator of the vehicle facing the green may proceed, subject to the right-of-way
75 of a vehicle participating in a funeral procession.

76 (5) A vehicle owned by a funeral home establishment or a licensed or registered certified
77 funeral director, and operated by a funeral director, an employee or an independent contractor of
78 a funeral home may have mounted thereon flashing, rotating or oscillating purple/violet, amber
79 and or clear lights. Such vehicle may display a flashing, rotating or oscillating red light in the
80 opposite direction in which the vehicle is proceeding. Such lights shall only be displayed when
81 such owner or operator is proceeding in a funeral procession, or responding to a fatality on
82 behalf of the Chief Medical Examiner's Office and at no other time. A permit for the use of said
83 lights will not be required from the Registrar of Motor Vehicles.

84 (e)(1) Liability for any death, personal injury or property damage suffered by any person
85 in a funeral procession shall not be imposed upon the funeral director, funeral home, funeral
86 escort or their employees or agents if the funeral procession was operating in accordance with
87 subsections (b) to (d), inclusive, or would have been operating in such compliance but for the
88 failure of the operator of one or more vehicles in the funeral procession to exercise due care.

89 (2) Liability for any death, personal injury or property damage that results from, is
90 caused by, or arises out of any action or inaction of any operator of a vehicle in a funeral
91 procession under the control of a funeral director, funeral home, funeral escort or their
92 employees or agents shall not be imposed on such funeral director, funeral home, funeral escort
93 or their employees or agents if the funeral procession was operating in accordance with
94 subsections (b) to (d), inclusive, or would have been operating in such compliance but for the
95 operator of one or more vehicles in the funeral procession not exercising due care.

96 (3) This subsection shall not apply if the death, personal injury, or property damage
97 allegedly arose from a negligent act or omission in the operation of a vehicle by the funeral

98 director, funeral home, funeral escort or their employees or agents. The operator of a vehicle in a
99 funeral procession shall not be deemed to be an agent of the funeral director, funeral home, or
100 funeral escort unless such operator is an employee of the funeral director, funeral home, or
101 funeral escort and is acting in the course of his employment, or unless the operator was retained
102 as an independent contractor of the funeral director, funeral home or funeral escort and is
103 performing services therefore.

104 (f) This section shall not create a new cause of action or substantive legal rights against
105 any funeral director, funeral home, funeral escort or their employees or agents. This section shall
106 not affect any immunities from civil liability or defenses established by general law or any
107 immunity from civil liabilities or defense available at common law to which a funeral director,
108 funeral home, funeral escort, or their employees or agents may be entitled.

109 (g) A funeral procession of not more than 10 vehicles shall have the right, except on
110 Sundays and legal holidays, to use any parkway, boulevard or other public way to the same
111 extent and subject to the same regulations and restrictions as vehicles commonly known as
112 pleasure vehicles.