

The State of Texas
House of Representatives

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Dan Flynn
State Representative • District 2

April 12, 2005

The Honorable Chairman
Federal Trade Commission
United States of America
Washington, D.C. 20580

Re: FTC opinion on Funeral Rule:
"Cash Advances"

Dear Sir or Madam:

Several Texas Lawmakers are attempting to rectify a wrongful construction by a state trial court judge of the FTC Funeral Rule relating to cash advance items in a funeral contract.

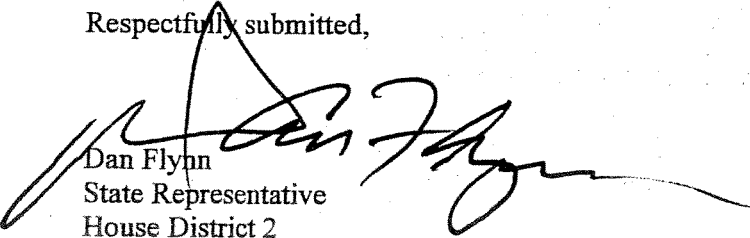
The court has ruled that all goods or services purchased from a third-party vendor, even though not included on the contract, are "cash advances" and must disclose the price paid by the funeral provider for the goods or services. As we understand the Funeral Rule, those items that do not appear on the general price list are designated as a "cash advance", "accommodation", "cash disbursement" or any other similar term, do not fall within the disclosure rule.

A critical hearing is imminent in the Texas House of Representatives Business and Industry Committee. Those of us interested in an accurate construction of the FTC rule, sorely need the opinion of the Commission to avoid a precedential decision that could mean the demise of many small and minority funeral homes- nationwide as well as Texas. Class actions seeking damages for non-disclosure of wholesale prices on items such as caskets, burial vaults, etc., have been filed in our state and California.

Obviously more will come if the Commission doesn't assist in setting the record straight.

We earnestly request an official Commission opinion on the lawful construction of cash advances.

Respectfully submitted,


Dan Flynn
State Representative
House District 2

Committees:

Vice-Chair, Pensions & Investments, Financial Institutions, General Investigations