

1974 WL 27768 (S.C.A.G.)
Office of the Attorney General
State of South Carolina
May 20, 1974

***1 Re: Funeral Service Act**

Mrs. Faye A. Jackson
304 North 24th Avenue
Dillon, S. C. 29556

Dear Mrs. Jackson:
Your letter of May 8, 1974, has been referred to me for reply.

You express dissatisfaction with the following two South Carolina laws:

Section 56-662.

...

No permit to operate a funeral home shall be issued to any corporation, partnership or individual when the name of any unlicensed person appears in the name of such corporation, partnership or individually owned business. Provided, this prohibition shall not apply to established funeral homes existing prior to July 1, 19??

...

Section 56-665. No person shall be issued a license as a funeral director unless he:

...

(5) Is possessed of a high school education or not less than sixteen Carnegie units or the equivalent thereof, together with a minimum of one year successful attendance at any accredited academic college or any accredited mortuary college;

...

As I understand your letter, you feel that these laws are unfair and unreasonable and consequently unconstitutional.

You are correct in your presumption that unfair and unreasonable laws are often unconstitutional. Both the state and federal constitutions protect citizens against arbitrary governmental acts. The question is whether or not the two laws cited accomplish a legitimate governmental purpose without being overly oppressive in the process.

Laws such as the Funeral Service Act are designed to protect the public from professional incompetence, unhealthful conditions, and fraud and deceit. In the opinion of this office the two laws which are here concerned assist in this protective effort, without overburdening the general public. It does seem desirable that an exception should be available to persons like yourself. Unhappily, however, the law as written does not provide for an exception. The fastest and least

expensive way to obtain such an exception is to have the legislature modify the law. Your alternative would be to bring suit in the courts in an effort to have the courts rule these laws void. Until one of these things are accomplished these laws remain valid and must be complied with.

Very truly yours,

John B. Grimball
Assistant Attorney General

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