

casket prices as a result of increased competition.”⁸ A district court reviewing a similar statute in Mississippi also concluded that such requirements result in less price competition and consumer choice in selecting a casket.⁹

The Missouri statute that created the Board and grants it the authority to act was not intended to displace competition in the sale of funeral merchandise with regulation. Indeed, it appears that Missouri intended to preserve price competition with respect to the retail sale of funeral caskets by excepting from application of the at-need funeral statute “any person engaged simply in the furnishing of burial receptacles for the dead.”¹⁰

III. Terms of the Proposed Consent Order

The Board has signed a consent agreement containing the proposed consent Order. The proposed Order would prevent the Board from prohibiting, restricting, impeding or discouraging any person from engaging in the sale or rental to the public of funeral merchandise or burial receptacles for the dead, directly or indirectly, or through any rule, regulation, policy, or conduct.

The proposed Order requires the Board to publish in the Newsletter of the Board of Embalmers and Funeral Directors, the full text of Mo. Rev. Stat. § 333.251 (2005), the Order, and an accompanying statement that: “The Rules and Regulations of the Board of Embalmers and Funeral Directors do not prohibit persons not licensed as funeral directors or embalmers from selling caskets, burial receptacles or other funeral merchandise to the public in the State of Missouri.”

The proposed Order also requires the Board to display an advisory on its public website stating that it has settled FTC allegations regarding restrictions and prohibitions on the sale of funeral merchandise or caskets, and to provide a link to the Board’s website that contains the full text of Mo. Rev. Stat. § 333.251 (2005), a link to Mo. Code Regs. Ann. tit. 20, § 2120–2.060 (2006), and a link to this Order. The proposed Order further requires the Board to publish notice of the Order and settlement in three consecutive issues of Missouri Funeral Directors’ Association Magazine and in the Missouri State Board of Embalmers and Funeral

Directors Rules and Regulations, Chapters 333, 436, 193, 194, which shall be provided to all licensees within one (1) year from the date the Order becomes final.

The proposed Order includes requirements that the Board notify the Commission at least thirty (30) days prior to any filing with the Missouri Secretary of State of any Proposed Order of Rulemaking concerning the Board’s rules or regulations, or prior to proposing any change in Respondent that may affect compliance obligations. The proposed Order contains standard provisions requiring the filing of regular written reports of the Board’s compliance with the terms of the Order for each of the next five years. The Order will expire in ten (10) years.

By direction of the Commission.

Donald S. Clark,

Secretary.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Final Effect of Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice concerning the final effect of the HHS decision to designate a class of employees at the Allied Chemical Corporation Plant in Metropolis, Illinois, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On February 1, 2007, as provided for under 42 U.S.C. 7384q(b), the Secretary of HHS designated the following class of employees as an addition to the SEC:

Atomic Weapons employees who were monitored or should have been monitored for exposure to ionizing radiation while working at Allied Chemical Corporation Plant in Metropolis, Illinois, from January 1, 1959 through December 31, 1976, and who were employed for a number of work days aggregating at least 250 work days or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation became effective on March 3, 2007, as provided for under 42 U.S.C. 7384(14)(C). Hence, beginning on March 3, 2007, members of this class of employees, defined as reported in this notice, became members of the Special Exposure Cohort.

FOR FURTHER INFORMATION CONTACT:

Larry Elliott, Director, Office of Compensation Analysis and Support, National Institute for Occupational Safety and Health (NIOSH), 4676 Columbia Parkway, MS C–46, Cincinnati, OH 45226, Telephone 513–533–6800 (this is not a toll-free number). Information requests can also be submitted by e-mail to OCAS@CDC.GOV.

Dated: March 12, 2007.

John Howard,

Director, National Institute for Occupational Safety and Health.

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DEPARTMENT OF HEALTH AND HUMAN SERVICES

National Institute for Occupational Safety and Health; Final Effect of Designation of a Class of Employees for Addition to the Special Exposure Cohort

AGENCY: National Institute for Occupational Safety and Health (NIOSH), Department of Health and Human Services (HHS).

ACTION: Notice.

SUMMARY: The Department of Health and Human Services (HHS) gives notice concerning the final effect of the HHS decision to designate a class of employees at the Harshaw Harvard-Denison Plant in Cleveland, Ohio, as an addition to the Special Exposure Cohort (SEC) under the Energy Employees Occupational Illness Compensation Program Act of 2000. On February 1, 2007, as provided for under 42 U.S.C. 7384q(b), the Secretary of HHS designated the following class of employees as an addition to the SEC:

Atomic Weapons employees who were monitored or should have been monitored while working at the Harshaw Harvard-Denison Plant located at 1000 Harvard Avenue in Cleveland, Ohio from August 14, 1942 through November 30, 1949, and who were employed for a number of work days aggregating at least 250 work days or in combination with work days within the parameters established for one or more other classes of employees in the Special Exposure Cohort.

This designation became effective on March 3, 2007, as provided for under 42

⁸ *Powers v. Harris*, 2002 WL 32026155 at *6 (W.D. Okla. Dec. 12, 2002).

⁹ *Casket Royale, Inc. v. Mississippi*, 124 F.Supp. 2d 434, 440 (S.D. Miss. 2000).

¹⁰ Mo. Rev. Stat. § 333.251 (2005).