

SENATE No.

The Commonwealth of Massachusetts

PRESENTED BY:

Steven A. Baddour

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

An Relative to Funeral Processions .

PETITION OF:

NAME:

Steven A. Baddour

DISTRICT/ADDRESS:

First Essex

The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

AN 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 following
4 meanings:-

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

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

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

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

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

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

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

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

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

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

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

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

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

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

48 (3) Except as provided in paragraph (4) of this subsection, an operator of a funeral escort
49 vehicle may, while exercising due care, direct operators of other vehicles in a funeral procession
50 to proceed through an intersection or to make turns or other movements despite any traffic
51 control device signal to the contrary. Funeral escort vehicles may exceed the speed limit by 10

52 miles per hour when overtaking the funeral procession in order to arrive at the next intersection
53 ahead of the procession so as to direct the procession through.

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

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

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

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

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

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

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

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

69 (4) enter an intersection, even if the operator is facing a green traffic control signal when a
70 funeral procession is proceeding through a red traffic control signal at the intersection as

71 permitted under subsection (c), unless the operator may do so without crossing the path of the
72 funeral procession. If the red signal changes to green while the funeral procession is within the
73 intersection, the operator of the vehicle facing the green may proceed, subject to the right-of-way
74 of a vehicle participating in a funeral procession.

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

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

88 (2) Liability for any death, personal injury or property damage that results from, is caused by,
89 or arises out of any action or inaction of any operator of a vehicle in a funeral procession under
90 the control of a funeral director, funeral home, funeral escort or their employees or agents shall
91 not be imposed on such funeral director, funeral home, funeral escort or their employees or
92 agents if the funeral procession was operating in accordance with subsections (b) to (d),

93 inclusive, or would have been operating in such compliance but for the operator of one or more
94 vehicles in the funeral procession not exercising due care.

95 (3) This subsection shall not apply if the death, personal injury, or property damage allegedly
96 arose from a negligent act or omission in the operation of a vehicle by the funeral director,
97 funeral home, funeral escort or their employees or agents. The operator of a vehicle in a funeral
98 procession shall not be deemed to be an agent of the funeral director, funeral home, or funeral
99 escort unless such operator is an employee of the funeral director, funeral home, or funeral escort
100 and is acting in the course of his employment, or unless the operator was retained as an
101 independent contractor of the funeral director, funeral home or funeral escort and is performing
102 services therefore.

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

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