	(Original Signature of Member)
	TH CONGRESS 1ST SESSION H.R.
	direct the Federal Trade Commission to establish rules to prohibit unfair or deceptive acts or practices related to the provision of funeral services.
	IN THE HOUSE OF REPRESENTATIVES
Mr	Rush introduced the following bill; which was referred to the Committee on
	A BILL
То	direct the Federal Trade Commission to establish rules to prohibit unfair or deceptive acts or practices related to the provision of funeral services.
1	Be it enacted by the Senate and House of Representa-
2	tives of the United States of America in Congress assembled,
3	SECTION 1. SHORT TITLE.
4	This Act may be cited as the "Bereaved Consumer's
5	Bill of Rights Act of 2009".
6	SEC. 2. FINDINGS.
7	Congress finds that—

1	(1) there have been shocking consumer abuses
2	in the funeral industry, including scandals at Burr
3	Oak Cemetery in Alsip, Illinois, Menorah Gardens
4	Cemetery in Palm Beach, Florida, and the Tri State
5	Crematory in Noble, Georgia;
6	(2) funeral arrangements are a major expense
7	for most American households and families;
8	(3) some consumers seek to ease the burdens on
9	their families by arranging and paying for pre-need
10	funeral and cemetery arrangements;
11	(4) most funerals are planned by grieving fam-
12	ily members at a time when they are especially vul-
13	nerable and unlikely to focus on cost comparison;
14	(5) the Federal Trade Commission's Funeral
15	Industry Practices Trade Regulation Rule (known as
16	the Funeral Rule) dictates consumer protections in
17	the funeral home, but does not cover the practices
18	of cemeteries, crematoria, or sellers of monuments,
19	urns, or caskets;
20	(6) State laws are inconsistent and frequently
21	too weak to provide adequate consumer protections,
22	creating a need for minimum federal standards in
23	this area;

1	(7) consumers have the right to receive clear
2	and accurate information about all funeral goods
3	and services offered for sale;
4	(8) consumers need effective protection from
5	fraud and abusive practices by all providers of fu-
6	neral goods and services and at all stages of the fu-
7	neral planning process; and
8	(9) a new Federal law that provides adequate
9	protections to grieving families is warranted.
10	SEC. 3. FTC RULEMAKING RELATING TO UNFAIR OR DE-
11	CEPTIVE ACTS OR PRACTICES IN THE PROVI
12	SION OF FUNERAL GOODS OR SERVICES.
13	(a) In General.—The Federal Trade Commission
14	shall prescribe rules prohibiting unfair or deceptive acts
15	or practices in the provision of funeral goods or services
	or practices in the provision of funeral goods or services Such rules shall include the following:
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15 16	Such rules shall include the following:
15 16 17	Such rules shall include the following:  (1) A requirement that providers of funeral
15 16 17 18	Such rules shall include the following:  (1) A requirement that providers of funeral goods or funeral services furnish accurate price in-
15 16 17 18	Such rules shall include the following:  (1) A requirement that providers of funeral goods or funeral services furnish accurate price information disclosing the cost to the purchaser for
115 116 117 118 119 220	Such rules shall include the following:  (1) A requirement that providers of funeral goods or funeral services furnish accurate price information disclosing the cost to the purchaser for each of the specific funeral goods or funeral services.
115 116 117 118 119 220 221	Such rules shall include the following:  (1) A requirement that providers of funeral goods or funeral services furnish accurate price information disclosing the cost to the purchaser for each of the specific funeral goods or funeral services provided or offered for sale.

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1	(3) A prohibition on conditioning the provision
2	of any funeral good or funeral service upon the pur-
3	chase of any other funeral good or funeral service
4	from that provider, except as required by law.
5	(4) A requirement that contracts for funeral
6	services or funeral goods be written clearly, stating
7	the merchandise and services that purchasers are
8	buying and their prices.
9	(5) In the case of contracts for funeral services
10	or funeral goods that are pre-paid in whole or in
11	part, required disclosures in the contract regarding
12	any penalties incurred if the consumer decides to
13	cancel or transfer the contract to another provider
14	of funeral services or funeral goods.
15	(6) A requirement that contracts for funeral
16	services or funeral goods disclose all fees and costs
17	to be incurred in the future or at the time that the
18	funeral services or funeral goods are provided.
19	(7) A requirement that cemeteries provide to
20	consumers, in a timely manner, all written rules and
21	regulations of the cemetery, and a clear explanation
22	in writing of the interment, inurnment, or entomb-
23	ment right that has been purchased, and any mate-

rial terms and conditions of that purchase, including

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1	any repurchase option by the cemetery or resale
2	rights available to the consumer.
3	(8) A requirement that cemeteries—
4	(A) retain all records in existence on the
5	date of enactment of this Act, including maps
6	or other systems indicating the location and
7	date of each interment, inurnment, or entomb-
8	ment;
9	(B) accurately record and retain records of
10	all interment, inurnment, or entombment rights
11	sold after the effective date of the regulations
12	issued under this subsection, in such manner
13	and form as the Commission may prescribe in
14	such regulations; and
15	(C) make such records available to Fed-
16	eral, State, and local governments, as appro-
17	priate.
18	(b) Rulemaking.—
19	(1) In General.—The Commission shall pre-
20	scribe the rules under subsection (a) within 1 year
21	after the date of enactment of this Act. Such rules,
22	and any future rules or revision of rules prescribed
23	by the Commission prohibiting unfair or deceptive
24	acts or practices in the provision of funeral goods or

1	services, shall be prescribed in accordance with sec-
2	tion 553 of title 5, United States Code.
3	(2) Relationship to funeral rule.—No
4	rule prescribed pursuant to this Act shall be less
5	protective of consumers than the Trade Regulation
6	Rule on Funeral Industry Practices (16 C.F.R. part
7	453).
8	(c) Application of Rules to Tax Exempt Orga-
9	NIZATIONS AND STATES.—Notwithstanding the definition
10	of corporation in section 4 of the Federal Trade Commis-
11	sion Act (15 U.S.C. 44), the rules prescribed under sub-
12	section (a), and any future rules or revision of rules pre-
13	scribed by the Commission prohibiting unfair or deceptive
14	acts or practices in the provision of funeral goods or fu-
15	neral services, shall also apply to cemeteries organized or
16	operated by—
17	(1) organizations described in section 501(c) of
18	the Internal Revenue Code of 1986 that are exempt
19	from taxation under section 501(a) of such Code;
20	(2) religious organizations (notwithstanding any
21	contrary provisions of law set forth in the Religious
22	Freedom Restoration Act, 42 U.S.C. 2000bb-
23	2000bb-4); and
24	(3) States or any political subdivision of a
25	State.

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(d) Enforcement.—Any violation of any rule pre-

scribed under this section shall be treated as a violation

of a regulation prescribed under section 18(a)(1)(B) of the 3 Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)) 4 regarding unfair or deceptive acts or practices. The Fed-6 eral Trade Commission shall enforce this Act in the same manner, by the same means, and with the same jurisdic-8 tion as though all applicable terms and provisions of the Federal Trade Commission Act were incorporated into and made a part of this Act. Any person who violates the regu-10 lations prescribed under this Act shall be subject to the 12 penalties and entitled to the privileges and immunities provided in that Act. 13 14 SEC. 4. ENFORCEMENT BY STATES. 15 (a) IN GENERAL.—Whenever an attorney general of any State has reason to believe that the interests of the 16 residents of that State have been or are being threatened 18 or adversely affected because any person has engaged or is engaging in an act or practice which violates any rule 19 of the Commission issued under section 3 of this Act, the 20 21 State, as parens patriae, may bring a civil action on behalf 22 of its residents in an appropriate district court of the 23 United States to enjoin such violative act or practice, to enforce compliance with such rule of the Commission, to

obtain damages, restitution, or other compensation on be-

half of residents of such State, or to obtain such further and other relief as the court may determine appropriate. 3 (b) Notice.—The State shall provide prior written notice of any civil action under subsection (a) or (f)(2)to the Commission and provide the Commission with a 5 copy of its complaint, except that if it is not feasible for 6 the State to provide such prior notice, the State shall pro-8 vide such notice immediately upon instituting such action. Upon receiving a notice respecting a civil action, the Com-10 mission shall have the right— 11 (1) to intervene in such action; 12 (2) upon so intervening, to be heard on all mat-13 ters arising therein; 14 (3) to remove the action to the appropriate 15 United States district court; and 16 (4) to file petitions for appeal. 17 (c) Construction.—For purposes of bringing any 18 civil action under subsection (a), nothing in this Act shall prevent an attorney general from exercising the powers 19 conferred on the attorney general by the laws of such 20 21 State to conduct investigations or to administer oaths or 22 affirmations or to compel the attendance of witnesses or 23 the production of documentary and other evidence. 24 (d) Actions by Commission.—Whenever a civil action has been instituted by or on behalf of the Commission

1	for violation of any rule prescribed under section 3 of this
2	Act, no State may, during the pendency of such action
3	instituted by or on behalf of the Commission, institute a
4	civil action under subsection (a) or (f)(2) of this section
5	against any defendant named in the complaint in such ac-
6	tion for violation of any rule as alleged in such complaint.
7	(e) Venue; Service of Process.—Any civil action
8	brought under subsection (a) of this section in a district
9	court of the United States may be brought in the district
10	in which the defendant is found, is an inhabitant, or trans-
11	acts business or wherever venue is proper under section
12	1391 of title 28, United States Code. Process in such an
13	action may be served in any district in which the defend-
14	ant is an inhabitant or in which the defendant may be
15	found.
16	(f) Actions by Other State Officials.—
17	(1) Construction.—Nothing contained in this
18	section shall prohibit an authorized State official
19	from proceeding in State court on the basis of an al-
20	leged violation of any civil or criminal statute of
21	such State.
22	(2) Other state actions.—In addition to ac-
23	tions brought by an attorney general of a State
24	under subsection (a) of this section, such an action
25	may be brought by officers of such State who are

1	authorized by the State to bring actions in such
2	State on behalf of its residents.
3	SEC. 5. EFFECT ON OTHER LAW.
4	(a) No Preemption.—Nothing in this Act or the
5	rules prescribed under this Act shall be construed to pre-
6	empt any provision of any law of a State or political sub-
7	division of that State that provides protections to con-
8	sumers of funeral services or funeral goods, except to the
9	extent that the provision of law is inconsistent with any
10	provision of this Act or a rule prescribed under this Act,
11	and then only to the extent of the inconsistency.
12	SEC. 6. DEFINITIONS.
13	In this Act—
14	(1) the term "cemetery" means any organiza-
15	tion, association or other business that offers for
16	sale the interment, inurnment, or entombment of
17	human remains, but does not include any cemetery
18	that—
19	(A) performs fewer than 25 interments,
20	inurnments, and entombments during any cal-
21	endar year; or
22	(B) sells fewer than 25 interment,
23	inurnment, or entombment rights during any
24	calendar year;

1	(2) the term "funeral goods" are the goods
2	which are sold or offered for sale directly to the pub-
3	lic for use in connection with funeral services; and
4	(3) the term "funeral services" means—
5	(A) any services which are sold or offered
6	for sale to the public in order to—
7	(i) care for and prepare deceased
8	human bodies for burial, cremation, or
9	other final disposition;
10	(ii) arrange, supervise, or conduct the
11	funeral ceremony or the final disposition of
12	deceased human bodies; or
13	(B) services provided by funeral directors,
14	morticians, cemeterians, cremationists, and re-
15	tailers of caskets, urns, monuments, and mark-
16	ers.