NUMBERS MATTER: ESTIMATING THE COST OF
STATE FUNERAL REGULATIONS

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I. INTRODUCTION

State funeral regulations have been challenged in a series of court cases for unjustifiably increasing the cost of funerals to consumers.¹ The plaintiffs’ arguments rest on two types of evidence: simple logic using economic reasoning, and statistical evidence directly tying the regulations to the cost of funerals.² The first type, arguments based on logic, typically documents the extra costs that a particular regulation imposes on firms and then argues that these costs must be passed onto consumers via higher prices.³ The second type, statistical evidence, typically compares funeral prices or expenditures across states with different regulations while controlling for other factors affecting costs.⁴

In this essay, we use new data on the price of funerals across metropolitan areas of state capitals to explain how economists estimate the cost of state funeral regulations. We chose state capitals to highlight the cost that state legislators and governors are imposing on their own neighbors by failing to reform state funeral regulations, almost all of which were enacted when funeral markets were far different than they are today.⁵ For

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³. Id.

⁴. Id. at 98.

example, one of the most antiquated regulations requires all funeral establishments, including the branch locations, to have embalming preparation rooms. This requirement exists in eighteen states. At the time those requirements were enacted, most bodies were embalmed, and nearly every funeral home needed to have an embalming preparation room. Neither is true today, and there are thousands of unused embalming rooms across the country as a result.

We focus on the embalming room requirement because it is emblematic of how outdated regulations can lead to wasteful spending, but nevertheless be vigorously defended by special interests. Later, we will describe other prevalent and similarly wasteful state funeral regulations. We will begin by describing the history of the embalming room requirement in Arizona and California and discussing recent court cases challenging the requirement in Minnesota and Pennsylvania.

Arizona imposed its embalming room requirement in 1945 when the legislature revised the state code governing funeral directing in the state. At that time, nearly all funeral homes were family-owned, and most families buried their loved ones, many of whom were embalmed prior to burial for open casket services. As a result, most funeral homes needed to have embalming facilities. This is no longer true for two reasons. First, the dramatic increase in cremation has reduced the demand for embalming as consumers choosing cremation are less inclined to have their loved one’s bodies embalmed. Second, many funeral homes are now owned by corporations that cluster funeral homes around centralized embalming facilities to reduce costs by exploiting economies of scale. As a result, requiring all funeral

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7. See infraTable 3.
8. Foos, supra note 5, at 1376.
10. Foos, supra note 5, at 1376.
11. See generally id.
homes to have embalming rooms unnecessarily increases funeral costs.

For example, a corporation that owned twenty-four funeral homes in Phoenix in 2003 only embalmed bodies at five of their facilities, leaving the other nineteen legally-required embalming rooms unused. The growing number of unused embalming rooms led the Auditor General of Arizona to recommend repealing the embalming room requirement because: “[e]stablishments can spend anywhere between $10,000 and $35,000 on embalming equipment and building space for the preparation rooms. These increased costs are then passed along to consumers in the form of higher funeral prices.” The Arizona State Board of Funeral Directors and Embalmers was not persuaded by the Auditor General’s logic and argued through analogy:

When a consumer enters a restaurant for service he assumes that the licensed restaurant has a kitchen and that the kitchen is inspected and functional. He may order only a salad and not anything from the grill or oven yet it is reasonable to expect that those services are available if desired. The costs attributable to the cost of the menu items have more to do with location, size, décor, ambiance and other factors than the size and functionality of the kitchen.

We doubt that consumers entering the Neptune Society sales office in Tucson’s Northpoint Plaza, for example, assume there is an embalming room in the back, for Neptune specializes in arranging simple cremations, and thus bodies are never even brought to that office. Although Neptune has no use for an embalming preparation room, it still needs to have one because

14. Id.
15. Id. at 6.
Arizona legislators did not adopt the Auditor General’s recommendation in 2003.\(^\text{17}\) Lawmakers were able to ignore the recommendation because the Auditor General’s report on the performance of the State Board of Funeral Directors and Embalmers received scant media attention.\(^\text{18}\) Conversely, four other reports issued that year received significant coverage, which included prominently placed articles, op-ed essays and editorials.\(^\text{19}\) Why the different treatment? One possible reason is that the latter reports contained more newsworthy numbers.\(^\text{20}\) One report highlighted that a higher fraction of Arizona’s foster children lived with multiple families each year than elsewhere in the country.\(^\text{21}\) Another noted how $65 million in tax credits were given to companies for economic development.\(^\text{22}\) In contrast, the Auditor General’s report on the funeral board did not include any numbers on the cost of the embalming room requirement; instead, the report stated that the cost of these unnecessary facilities must be passed on to consumers.\(^\text{23}\)

On the other hand, in California, media coverage stopped the legislature from imposing an embalming room requirement in 1972.\(^\text{24}\) After a bill to do so passed the State Senate, the Los Angeles Times published an article detailing how the bill was designed to force the Telophase Society of San Diego to build embalming preparation rooms despite the fact that it did not offer embalming

\(^{17}\) J. LEGIS. AUDIT COMM., STATE BD. OF FUNERAL DIRS. & EMBALMERS, 46-03-04, 1st Sess., at 27 (Ariz. 2003).

\(^{18}\) See generally id.

\(^{19}\) See, e.g., Opinion, Foster Failure: Our Stand; State’s Foster Kids are Victims of a Broken System, ARIZ. REPUBLIC, July 31, 2003, at 8B (criticizing the state of Arizona’s child foster system as detailed in the auditor general’s report); see also Pat Kossan, Report Rips Oversight of Charters; Board Fails in Key School Areas, ARIZ. REPUBLIC, Aug. 13, 2003, at 1B (noting the need for oversight of Arizona charter schools noted in the auditor general’s report).


\(^{21}\) See J. LEGIS. AUDIT COMM., DEPT OF ECON. SEC., 46-03-05, 1st Sess., at 10 (Ariz. 2003).

\(^{22}\) See J. LEGIS. AUDIT COMM., ARIZ. DEP’T OF COM., 46-03-08, 1st Sess., at vi (2003).


services. The article explained that the Telphase Society sold cremations for just $265. A few days later, the newspaper editorialized that the mortician-sponsored bill deserved to die, characterizing it as special interest legislation aimed at making it more difficult to provide low-cost funerals. The California State Assembly killed the bill a few days later in response to “mounting public pressure.”

After years of lobbying state legislators to reform Pennsylvania’s funeral laws bore no fruit, in 2008, a group of funeral directors and cemetery owners led by Ernest Heffner challenged Pennsylvania’s funeral laws in federal court. The complaint argued Pennsylvania’s embalming room requirement was a “meaningless” law that did not achieve any rational objective because so many embalming rooms were never used. The federal district court judge agreed, ruling the embalming room requirement was unconstitutional. The Third Circuit Court of Appeals reversed that decision, noting that “the Constitution does not protect against inefficient, wasteful, or meaningless legislation.” Statistics could not sway the judges of the Third Circuit because, for a Due Process Clause issue, so long as the government provides a list of “purportedly legitimate interests,” the Court will not overturn state legislation.

In 2012, the Institute of Justice filed a complaint in Minnesota state court on behalf of entrepreneur Verlin Stoll who wanted to open a second funeral home without having to build a second embalming preparation room that he would never use. According to the Institute for Justice’s brief, the constitutional question was: “Can the government force entrepreneurs to do

26. Id.
27. William Endicott, Sponsors Drop Bill to Curb Funeral Societies L.A. TIMES Aug. 4, 1972 (describing the assembly’s acceptance funeral society regulation bill; Opponents describe licensing measure as public ripoff).
28. Id.
30. Id. at 401–02.
31. Id. at 401.
32. Heffner v. Murphy, 745 F.3d 56, 85 (3d Cir. 2014).
33. Id. at 84.
useless things.” The district court judge ruled that it could not, at least in Verlin Stoll’s case, because requiring a business owner to build a useless preparation room did not further a legitimate government objective. In his opinion, the judge noted that “non-functional prep rooms” were so prevalent in Minnesota that state inspection forms included a check box to indicate whether the embalming room was operational. He agreed with the plaintiffs that requiring funeral homes to build useless facilities was likely to increase prices. The judge buttressed his opinion with estimates of the law’s cost to consumers, which are similar to the estimates produced for this article. Following his ruling, the Minnesota legislature and governor reformed their funeral law in 2014 so that branches were no longer required to have embalming preparation rooms.

II. STATE FUNERAL REGULATIONS

Two-thirds of states stringently regulate funeral markets by imposing extensive facility requirements for establishments and substantial training requirements for funeral directors. The rationale for many of these requirements is that they are necessary to ensure that funeral directors and funeral homes are adequately prepared to embalm bodies.

A. Ready-to-Embalm Laws

David E. Harrington coined the term “ready-to-embalm laws” to characterize state laws that require all funeral homes to have embalming preparation rooms and/or all funeral directors to be trained as embalmers. These laws presume that embalming is a cornerstone of the funeral industry. The initial motivation for

37. Id. at *3.
38. Id. at *16.
39. Id. at *10-11.
40. MINN. STAT. § 149A.92 (2014).
41. Harrington & Krynski, supra note 12, at 203-06.
42. Harrington, supra note 6, at 202.
43. See generally id.
grouping these regulations together came from the Arizona State Board of Funeral Directors and Embalmers’ response to the Auditor General’s recommendation to drop the embalming room requirement.44 Arizona’s funeral licensing agency opposed the change, arguing that centralized embalming does not lessen the need for every branch to have embalming facilities. If a “problem occurs” with an embalmed body, the agency reasoned, “it is reasonable to expect that a consumer could have that problem resolved in a timely manner.”45 Hence, the “principal rationale for these regulations is that all funeral homes and funeral directors must be ready to embalm bodies, even satellite branches of funeral home chains and funeral directors who specialize in arranging cremations.”46

Most ready-to-embalm laws were adopted in the first half of the twentieth century.47 Virginia was the first state to license embalmers in 1894, although it is not clear whether the law required all undertakers to be embalmers.48 New York explicitly required all undertakers to be embalmers in 1905 after first licensing embalmers in 1898.49 Massachusetts achieved the same outcome by creating a funeral board to regulate the handling of dead bodies and issue burial permits only to licensed embalmers.50 Many ready-to-embalm laws began as administrative rules, and even today many of the specific requirements of the characteristics of embalming rooms appear in state administrative codes.51

The requirements for a funeral director’s license are almost always more extensive in states where funeral directors are required to be embalmers. For example, Massachusetts requires funeral directors to obtain mortuary college degrees and complete a two-year residency during which they must embalm at least fifty bodies.52 Hence, Massachusetts requires four years of training

45. Id.
46. Harrington, supra note 6, at 202.
47. Foos, supra note 5, at 1376.
48. Id. at 1387.
50. See id. at 512.
51. 299 MASS. CODE REGS. § 3.07 (West 2017).
52. MASS. GEN. LAWS ANN. ch. 112, § 83 (2017).
beyond high school, assuming the funeral director completes an associate degree in mortuary science. The average number of years of training for funeral directors in the twenty-five states that require them to be embalmers is more than a year longer than in states that offer separate licenses for funeral directors and embalmers.

While several recent court cases have challenged the constitutionality of the requirement that all funeral establishments must have embalming preparation rooms, we are not aware of any recent court cases dealing with the requirement that all funeral directors be embalmers. There were some cases early in the twentieth century. For example, in People v. Ringe the plaintiff sued an undertaker who was convicted of engaging in undertaking without an embalmers license. The Court of Appeals of New York affirmed the Appellate Division’s overturning of the conviction, arguing that since not all bodies were embalmed, the requirement was “unwarranted, improper and illegal.” The principal effect of this decision was to drop the portion of the 1905 law explicitly requiring undertakers to be licensed as embalmers. But the law still only offers a single license for funeral directors and embalmers, and that license requires training as an embalmer. Thus, it is still not possible to be a licensed funeral director in New York without being trained as an embalmer.

**B. Other Funeral Regulations**

Most other types of state funeral regulations only appear in states with ready-to-embalm laws. For example: ten of the twelve states that prohibit funeral homes from operating within cemeteries; four of the five states that only allow funeral directors to sell caskets; all three of the states that prohibit cemeteries from selling headstones, vaults and other funeral merchandise; and all four of the states that prohibit funeral homes from serving food

53. *Id.*
57. People v. Ringe, 197 N.Y. 143 (1910).
58. N.Y. PUB. HEALTH LAW § 3422 (LexisNexis 2017).
and drinks.\footnote{See generally David E. Harrington & Janet Treber, Cemeteries and Mortuaries—Better Together or Apart?, REGULATION, Dec. 2012-2013, at 42 (noting Wisconsin and Michigan prohibit funeral homes from operating within cemeteries); Ellig, supra note 2, at 101 (concerning caskets and sell of merchandise); Harrington, supra note 6 (noting the ten states without ready-to-embalm laws); Nicole Dube & James Orlando, CONN. OFFICE OF LEG. RESEARCH, Food and Beverage Service in Funeral Homes, CONN. GEN. ASSEMBLY (2013), https://www.cga.ct.gov/2013/rpt/2013-R0872.htm.}

Just as many funeral directors believe that embalming is the cornerstone of their profession, we believe that ready-to-embalm laws are the foundation of a set of regulations that are designed to preserve the status quo in funeral markets by excluding new competitors.\footnote{Harrington, supra note 6, at 215 (noting the three exemptions are characterized as not having ready-to-embalm laws because they exempt branches from the embalming room requirement, putting them in a gray area between states with ready-to-embalm laws and unregulated states that do not require an embalming room in any facility).}


The Institute won in Louisiana and Tennessee but lost in Oklahoma when the Tenth Circuit Court of Appeals ruled that favoring one industry over another is a legitimate state interest, which, in that case, meant favoring funeral directors over other potential sellers of caskets.\footnote{Louisiana Caskets, supra note 62; Oklahoma Caskets, supra note 62; Tennessee Caskets, supra note 62; see also Powers v. Harris, 379 F.3d 1208 (10th Cir. 2004).}

A similar law in New Jersey prohibits religious cemeteries from selling headstones and vaults to their parishioners and is currently being challenged by the Institute for Justice for unjustly favoring funeral directors and monument dealers.\footnote{New Jersey Headstones, INST. FOR JUST., http://ij.org/case/newjersey-headstones (last visited Sept. 21, 2017).}

Another law that generally favors funeral directors is the prohibition of funeral homes operating within cemeteries, often referred to as anti-combo laws within the industry.\footnote{Harrington & Treber, supra note 60, at 42.}

Aside from states where they are prohibited, the number of mortuary-cemetery combinations is growing, a trend driven by consumer demand and economies of scope.\footnote{Id. at 40, 42.} The Wisconsin Institute for Law and Liberty recently challenged Wisconsin’s anti-combo law
in state court.\textsuperscript{67} The challenge failed in the Circuit Court of Waukesha County because the judge concluded that there were several possible rational bases for the law, including arguments that it preserves competition and protects consumers from higher prices.\textsuperscript{68} That decision was upheld on appeal.\textsuperscript{69}

Two states prohibit funeral homes from serving food and drinks: New Jersey and Pennsylvania.\textsuperscript{70} A third state, New York, repealed its prohibition in 2016, and the New Jersey Assembly is currently considering a bill to repeal its law, which presently allows only funeral homes to provide water and peppermints to mourners.\textsuperscript{71} According to the \textit{Philadelphia Inquirer}, “No one knows exactly when or why New Jersey’s ban was imposed.”\textsuperscript{72} Funeral directors “believe it stems from concerns about public health and keeping food away from embalmed bodies.”\textsuperscript{73} Or, perhaps, messy carpets? The article says that funeral directors get requests to serve food all the time and hate to say no but are concerned “about messy mourners dropping food or spilling beverages on the carpet.”\textsuperscript{74} Funeral directors face a dilemma—what game theorists call a prisoner’s dilemma—that can be easily solved by having the state say “no” for them. Without the law, even funeral directors worried about “crumbs and spills” are apt to say “yes” to remain competitive. The stakes were even greater at the time the bans were imposed because many families, especially immigrant


\textsuperscript{69} \textit{Id.} at *10.


\textsuperscript{71} N.Y. PUB. HEALTH LAW § 3444 (McKinney 2017) (allowing funeral homes to serve only “incidental refreshments” and prohibiting alcoholic beverages); Burney, \textit{supra note} 70.

\textsuperscript{72} Burney, \textit{supra note} 70.

\textsuperscript{73} \textit{Id.}

\textsuperscript{74} \textit{Id.}
families, would have liked to have stayed with their loved ones longer than normal visiting hours. 75

III. DATA ON PRICES, REGULATIONS, AND POTENTIAL CONFOUNDERS

The Auditor General of Arizona, Debra K. Davenport, recommended repealing the state’s embalming room requirement based on the theory that the extra costs of requiring every funeral home to build expensive embalming preparation rooms are “passed along to consumers in the form of higher funeral prices.” 76 She did not provide her readers with an accounting of how much more consumers were paying because of the requirement. 77 Without statistical support, her recommendation to repeal the embalming room requirement was ignored by the Arizona Republic, unlike many of her other recommendations that came packaged with compelling numbers. 78

How can someone create these sorts of numbers for funeral regulations? First, you need to find data that gives you variation in the outcome of interest, in this case funeral prices. Second, you need a variation in the hypothesized determinant of the outcome, in this case, funeral regulations. One possibility is to gather data on funeral prices before and after Arizona imposed its embalming room requirement in 1945. Unfortunately, it is nearly impossible to get good data on funeral prices from so long ago. This problem is even more severe for states like Massachusetts and New York that imposed their funeral regulations even earlier. 79

Another way to get variation in funeral prices and regulations is to gather funeral prices or expenditures per death across states with different funeral regulations. This approach uses

75. See generally Samantha Watson, Cultural Spotlight: Mexican Funeral Traditions, FRAZIERCONSULTANTS (Sept. 19, 2016), https://www.frazerconsultants.com/2016/09/culturalspotlight-mexicanfuneraltraditions (describing how Mexican funeral traditions can involve staying with the deceased for up to 48 hours).


77. Id.

78. See generally Peter Corbett, Cardinals Stadium Authority Faces a Shortfall, ARIZ. REPUBLIC, Sept. 8, 2015, at A7 (reporting the recommendation of the Arizona Auditor General, supported by numerical data).

79. See generally 16 MASS. GEN. LAWS ch. 112, § 84B (2004); N.Y. PUB. HEALTH LAW § 3440-a (McKinney 2012).
a new source of data on the prices of direct cremations and traditional funerals at funeral homes across the country. A direct cremation is a standard package of services that includes taking the body to a crematory, placing it in a cardboard container, cremating the body, completing the necessary documents, and shipping the ashes to the family. It does not include hosting a funeral ceremony or visitation. A traditional funeral is a larger bundle of services including providing a casket, embalming the body, and hosting a visitation and funeral ceremony at the funeral home.

Parting.com is a web portal that allows consumers to compare the prices of funeral homes in cities across the country. It collects information from price lists that funeral homes are legally required to provide consumers under the Funeral Rule, which is enforced by the Federal Trade Commission. In April 2017, we scraped parting.com for the prices of direct cremations and traditional funerals for funeral homes in the metropolitan statistical areas of state capitals. This yields pricing data for 1830 funeral establishments, 1791 of which are funeral homes that offer both direct cremations and traditional funerals, and thirty-seven are cremation specialists.

The price data collected from parting.com is better than that used by Harrington and Elig for several reasons. Harrington relies on a smaller and perhaps less random sample of direct cremation prices collected by the now defunct FuneralDepot.com.

80. Elig, supra note 2, at 103; Harrington, supra note 6, at 202-08.
81. Harrington, supra note 6, at 206.
82. Id. at 202; Elig, supra note 2, at 101.
84. 16 C.F.R. § 453.2 (2017); Frequently Asked Questions, PARTING, https://www.parting.com/faq (last visited Sept. 21, 2017) (explaining how prices on the website were obtained). Parting.com defines a traditional funeral as including the following services: basic service of the funeral director, a viewing/visitation, a funeral ceremony, transfer of remains, embalming, casket, outer burial container and dressing/casketing. It does not include cemetery or disposition costs, such as the price of a grave. Gene Davis White Columns Chapel and Cremations, PARTING, https://www.parting.com/localsearchlist?location=GA/mableton&gene_davis_white_columns_chapel_and_cremations30136&h=1&burial=true&wake=true&service=true (last visited Sept. 21, 2017) (illustrating a funeral home listing as an example of what pricing information is provided).
85. Our data does not include prices for Juneau, Alaska or Bismarck, North Dakota because Parting.com does not list any funeral homes in these metropolitan areas. PARTING, www.parting.com (last visited Sept. 20, 2017).
86. Harrington, supra note 6, at 205-07.
Ellig uses funeral expenditures per death from the Economic Census rather than actual prices of funeral goods and services.\textsuperscript{87} Funeral expenditures reflect funeral prices as well as the quantity and quality of the funeral goods and services bought.\textsuperscript{88} This can be problematic if, for example, consumers in states with stringent funeral regulations happen to prefer more expensive caskets than consumers in less regulated states. In that case, it would be difficult to disentangle the impact of stringent funeral regulations from the impact of differences in consumer preferences. Using prices for specific packages of goods and services, such as a direct cremation, helps avoid this problem. The principal drawback of using prices charged by funeral homes is that we are implicitly weighing all funeral homes equally. If funeral homes with lower prices sell more services, then average prices obtained from our data may overestimate the average prices actually paid by consumers.

Harrington and Krynski were among the first economists to investigate the effect of state funeral regulations on the outcomes of funeral markets using state and county data.\textsuperscript{89} When they began their research, they found it relatively easy to collect information on outcome variables such as state and county cremation rates. But finding information on state funeral regulations was much more difficult. They searched libraries, journals, government documents, and websites looking for classifications of funeral regulations by state but came up empty-handed. Eventually, they turned to scouring state statutes at the state law library in Columbus, Ohio, to classify funeral regulations by state. The classification of the embalming room regulations used in this paper are presented by Ellig and adjusted to reflect Minnesota’s partial repeal of their embalming room requirement in 2014.\textsuperscript{90} We use the classification concerning whether funeral homes are prohibited from selling food collected for the Heffner case and

\textsuperscript{87} Ellig, supra note 2, at 100; Harrington, supra note 6, at 202 (using funeral expenditures per death as a second source of data).
\textsuperscript{88} Harrington, supra note 6, at 202.
\textsuperscript{89} See generally Harrington & Krynski, supra note 12.
updated to reflect New York’s repeal of the law. The classifications of whether states prohibit mortuary-cemetery combinations come from Harrington and Treber and the rest of the regulations also come from Ellig.

Table One provides average prices using our sample of funeral homes in the metropolitan areas of state capitals. Column one presents the average prices of direct cremations and traditional funerals in states with ready-to-embalm laws while column two presents prices in states without such laws. States are considered to have ready-to-embalm laws if they require all funeral homes to have an embalming room, and/or they require funeral directors to be licensed embalmers. The average price of a traditional funeral ranges from $6476 to $6965, which is roughly comparable to the national median price of $7181 in a national survey of funeral homes in 2014. Column three compares the previous two columns and reveals that prices are higher in states with ready-to-embalm laws. Direct cremation prices are $363 higher, and traditional funeral prices are $489 higher. Using states without ready-to-embalm laws as the baseline, these differences represent a twenty percent increase in the price of a direct cremation, a service that does not include embalming, and an eight percent increase in the price of a traditional funeral.

Ready-to-embalm laws cost consumers a lot of money. However, a proponent of these laws, especially a lawyer hired to defend them, might argue that these price differences are likely due to factors other than ready-to-embalm laws. For example, she might argue that the price differences are really due to differences in the cost of living across the two groups of cities. To illustrate


92. See generally Ellig, supra note 2.

93. Id.; Harrington, supra note 6, at 202. There are 39 states that satisfy these criteria and are thus classified as ready-to-embalm law states in our analysis. Id.

her point, she might focus on Boston, Massachusetts and Little Rock, Arkansas. Nearly everyone would agree that Boston is likely to have a higher cost of living than Little Rock. Funeral prices are likely to be higher in places with higher grocery, housing, and gasoline prices. Thus, the higher funeral prices in Boston relative to Little Rock, she would argue, are likely to be due to the higher cost of living in Boston—not the fact that Massachusetts has ready-to-embalm laws while Arkansas does not.

The cost of living is a potentially confounding variable, one that lurks out of sight when comparing the differences in the average prices of direct cremations and traditional funerals between states with and without ready-to-embalm laws. The way to account for this is to collect data on the cost of living in the cities of the sample and then include it as an explanatory variable in regressions explaining funeral prices. Fortunately, the Bureau of Economic Analysis measures the cost-of-living for metropolitan areas across the country using indices called regional price parities that are scaled to be 100, on average.\textsuperscript{95} For example, the regional price parities for Boston and Little Rock are 110.3 and 90.9, respectively, which says that the cost of living is roughly ten percent higher in Boston than in other, more typical cities, and roughly ten percent lower in Little Rock.\textsuperscript{96} By controlling for potential confounding factors such as the cost of living, we can obtain more precise estimates of the impacts of state funeral regulations on funeral prices.

\textbf{IV. ESTIMATES OF THE IMPACT OF STATE FUNERAL REGULATIONS ON FUNERAL PRICES}

Table Two presents regressions that explain funeral prices using explanatory variables that include whether the state has ready-to-embalm laws and the cost-of-living of the capital cities relative to cities nationally. The regressions also include explanatory variables that may affect prices via their effects on the


demand and supply of funeral services. The advantage of estimating regressions is that they allow us to estimate the effects of ready-to-embalm laws on funeral prices holding other factors, such as cities’ costs of living, constant.

Look first at column two of Table Two. The title at the top of the column tells us that the dependent variable of the regression is the price of traditional funerals. Thus, this regression is designed to explain why the price of a traditional funeral varies across the funeral homes in our data. The top number presented in column two is the estimated effect of ready-to-embalm laws on the price of traditional funerals holding the other explanatory variables constant. It says that, holding the cost of living and the other explanatory variables constant, the prices of traditional funerals are $358 higher, on average, in the capital cities of states with ready-to-embalm laws.\textsuperscript{97} This number is smaller than the $489 difference in the average price of traditional funerals between the capital cities of states with and without ready-to-embalm laws as shown in Table One. One of the reasons is that the lawyer’s story is accurate in the sense that increases in the cost of living are associated with higher funeral prices,\textsuperscript{98} and the cost of living is slightly higher in the capital cities of states with ready-to-embalm laws.\textsuperscript{99} But her story can only explain part of the difference in prices. Ready-to-embalm laws still have substantial effects on the prices of direct cremations and traditional funerals even after controlling for cost of living differences.

The regressions presented in the last two columns of Table Two estimate separate effects of the laws concerning embalming preparation rooms and embalming training that were used to

\textsuperscript{97} See infra Table 2. The asterisk on the estimated coefficient indicates that it is statistically significant at the one percent level using a twotailed test, which implies that the size of the estimated coefficient is very unlikely to be due to chance. The regression presented in column (2) is estimated on 1791 observations corresponding to the 1791 funeral homes in our sample. Ordinary ts-tests of statistical significance implicitly assume that these funeral homes are located in 1791 different legal jurisdictions, each with a unique set of funeral regulations. Our test statistics are corrected for the fact that the funeral homes are actually located in only 48 states, a correction that is called the cluster correction of standard errors.

\textsuperscript{98} See infra Table 2. This conclusion is based on the estimated coefficient of the Cost of living\textit{index} variable in the regression presented in column (2). See id.

\textsuperscript{99} The regional price parity is, on average, 99.5 in the capitals of states with ready-to-embalm laws and 98.0 in capitals of states without these laws. We calculated this using the BBA data cited above, aggregating the states with ready-to-embalm laws and states without these laws. See RPP2 Regional Price Parities by MSA and St. Portion, supra note 96.
create the *ready-to-embalm laws* variable. It makes sense to combine these laws because they complement one another in the eyes of their proponents, being justified as helping to ensure high-quality embalming services. But they are different regulations and they appear to differ in their legal vulnerabilities. Indeed, the embalming room requirement has been challenged in both Minnesota and Pennsylvania, while to our knowledge the embalmer requirement has never been challenged.\textsuperscript{100} The embalming room requirement may be more vulnerable because unused embalming rooms are more easily documented than funeral directors who never embalm a body, making the wastefulness of the regulation more vivid to judges and juries. Columns three and four provide separate estimates of the impacts of these two laws on direct cremation and traditional funeral prices.

The regression presented in column three implies that the embalming room requirement increases the price of a direct cremation by either $203 or $358 depending on whether the requirement applies to all funeral homes or just the main funeral home. These estimates assume all of the other explanatory variables are held constant including whether the state requires all funeral directors to be embalmers. Similarly, instituting an embalmer requirement increases the price of a direct cremation by $240, assuming all other explanatory variables are held constant, including whether a state requires embalming preparation rooms. Since direct cremations are a package of services that does not include embalming the body,\textsuperscript{101} this evidence again implies that requiring funeral directors to be trained embalmers or requiring funeral homes to have embalming preparation rooms increases the price of a package of services that explicitly does not include embalming the body. The embalming room requirement also increases the price of a traditional funeral, which does include embalming the body.\textsuperscript{102} In this case, the regressions imply that the embalming room requirement increases


\textsuperscript{102} Id.
the price of a traditional funeral by roughly $560, holding the other explanatory variables constant. 103

V. NUMBERS FOR JOURNALISTS, LAWYERS AND AUDITORS

Suppose you are a journalist for the Hartford Courant who has been asked by your editor whether there might be a local angle to the Minnesota embalming case. You investigate Connecticut’s funeral laws and discover that every “funeral service business” is required to contain “an adequate sanitary preparation room equipped with tile, cement or composition flooring, necessary ventilation, sink, and hot and cold running water, sewage facilities, and such instruments and supplies for the preparing or embalming of dead human bodies.” 104 Reading about the plaintiff in the Minnesota case, Verlin Stoll, you discover that he charges a lower price for traditional funerals than any other funeral home in the Twin Cities. 105 According to Parting.com, Stoll currently charges $4450 for a traditional funeral. 106 You search parting.com for traditional funeral prices in the Hartford metropolitan area and find that the least expensive funeral homes charge a thousand dollars more than Verlin Stoll, and most charge more than $7000. 107

103. See infra Table 2, 3(a), 3(b). All of the estimates discussed in this paragraph are statistically significant except for the estimated effect of the embalming room requirement (the one applying to all funeral homes) on the price of a direct cremation, which is just barely insignificant, having a t-statistic that is only 3.5% below the cutoff for statistical significance at the 10% level. A separate statistical test, an F-test, indicates that the estimated effect for the embalming room requirement that applies to all funeral homes is statistically indistinguishable from the estimated effect for the embalming room requirement that does not apply to branch locations. See also Stoll, 2013 WI L. 7204912, at #21 (noting Harrington’s assertion that embalming room requirements increase the cost of funerals). See generally F-Test, EXPLORABLE, www.explorable.com/f-test (last visited Sept. 21, 2017).

104. CONN. GEN. STAT. § 20-222 (2016).


Suppose your editor likes what you have found so far and asks you to come up with some more numbers and see whether you can find some examples of unused embalming rooms in the state. We could help you with the numbers, and state inspectors should know where you could find unused embalming rooms. Figure one illustrates the distribution of funeral homes in our sample by the prices they charge for a traditional funeral. The lighter bars illustrate the distribution of prices in state capitals outside of Connecticut, and the darker ones illustrate the distribution in Hartford. The average price of traditional funerals outside of Hartford is $6817 with the cheapest ten percent of funeral homes charging less than $5365. In contrast, the average price in Hartford is $7280, and none of its sixty-four funeral homes are among the cheapest ten percent of funeral homes nationally. This implies that Hartford consumers pay, on average, $463 more for traditional funerals than elsewhere. But this does not tell us how much more they are paying because of the embalming room requirement.

For that number, we need to look at the regression results presented in column four of Table Two, which tells us that consumers pay an extra $554 for traditional funerals in cities where all funeral homes must have embalming rooms, holding factors such as the cost of living constant.108 Multiplying this by the roughly 5000 burials performed in Hartford in 2014 yields a total cost of $2.78 million to Hartford’s consumers of traditional funerals. An analogous analysis finds that Hartford’s consumers of cremations are paying an extra $1.07 million as a result of Connecticut’s embalming room requirement. Hence, consumers in the Hartford metropolitan area are paying, in total, an extra $3.85 million per year for a regulation that the judge in the Minnesota case concluded was an “irrational exercise of the state’s police power.”109 That’s a lot of money to pay for an irrational law.

108. See infra Table 2, 3(a), 3(b). It might seem strange to some readers that the regression coefficient is larger than the difference in the means between Hartford and the rest of the United States. The principal reason is that many of the states outside of Connecticut also have embalming room requirements that increase the price of traditional funerals, decreasing the difference in the means between Connecticut and the rest of the country from the difference between states with and without the embalming room requirement. Harrington & Krynski, supra note 12, at 202-05.

Nearly all the newspaper articles that talk about state regulations concerning embalming rooms use either the Minnesota or Pennsylvania legal cases as a news hook. An exception is Stafford, which profiles a “nontraditional-looking funeral home” in Oklahoma City. The Corbett Funeral and Cremation Service is “housed in a building not built specifically for a funeral home but adapted for the business. It has no chapel. In a more subtle difference, there is no embalming room.” At the time, the owner of the funeral home, Darin Corbett, embalmed bodies using the preparation room of a nearby funeral home, and held services at a chapel that the funeral homes shared. These practices, he said, allowed him to charge $2000 to $3000 less for traditional funerals but also “drew the ire of competitors.” In response, Oklahoma tightened the language of its statute requiring funeral homes to have preparation rooms, although it exempts branches within sixty miles of an embalming room owned by the same funeral home. Darin Corbett still charges less than most funeral homes in Oklahoma City. According to Parting.com, Corbett charges $4755 for traditional funerals while other funeral homes charge, on average, $6265. The amount he is saving consumers, roughly $1500, is not quite as large as he claims he once did. This is consistent with our regression coefficient, which implies an embalming room law like Oklahoma’s increases the price of traditional funerals by $564, holding the other explanatory variables constant. Multiplying this extra cost by the total number of burials in Oklahoma City in 2014 yields a total cost of $3.77 million per year to Oklahoma City’s consumers of traditional funerals.

One might hope that newspaper articles like the one about Darin Corbett would be sufficient to reform embalming room laws, but it appears that the most effective way to reform these laws is to challenge them legally while fostering newspaper articles

110. Jim Stafford, Business Brings Change to Funerals, OKLAHOMAN, Nov. 21, 2006, at 2B.
111. Id.
112. Id.
113. Id.
114. OKLA. ADMIN. CODE § 255:10-3-2 (2016).
about the cases. For example, it took the Verlin Stoll case to nudge Minnesota to reform its funeral laws by enacting a branch exemption to the embalming room requirement.\textsuperscript{116} This strategy could be used elsewhere as there are still eighteen states that require all funeral establishments including branches to have embalming preparation rooms.

Our data could help lawyers find a sympathetic plaintiff, one similar to Verlin Stoll in Minnesota. In Figure One, two funeral homes in Connecticut are just above the cheapest decile of funeral homes nationally, defined as ones that charge less than $5,400 for a traditional funeral. These two funeral homes are represented by the black bar to the right of $5,400. One of these funeral homes is Abbey Funeral Home and Cremation Services, which also charges the second lowest price in Hartford for direct cremations, $995.\textsuperscript{117} Abbey’s website trumpets its low price and says that it will handle cremations anywhere in the state, a claim that is supported by the obituaries listed on its website. One could imagine that Abbey would like to expand by opening a second location without incurring the expense of building an embalming preparation room, placing the owner of Abbey in a situation analogous to Verlin Stoll.\textsuperscript{118}

Suppose a public-interest law firm enlists a funeral home like Abbey to challenge Connecticut’s embalming room law. To

\begin{itemize}
\item \textsuperscript{116} Stoll v. Minn. Dep’t of Health, No. 62CV-12-443, 2013 WL 7204912 (Minn. Dist. Ct. Oct. 9, 2013).
\item \textsuperscript{117} See ABBEY CREMATION SERV., https://www.abbeycremation.com (last visited Sept. 21, 2017). The lowest price for a direct cremation in Hartford is $975, which is charged by Affordable Cremations. AFFORDABLE CREMATIONS, https://affordablecremationct.com (last visited Sept. 21, 2017). But its address is exactly the same as the Spencer Funeral Home, which charges $405 for a direct cremation according to Parting.com. Spencer Funeral Home, PARTING, https://www.parting.com/funeralHome/CT/easthampton/spencerfuneralhome02406424/?h=1&burial=true&wake=true&service=true (last visited Sept. 21, 2017). We called Affordable Cremations and asked for the price of a direct cremation; the funeral director quoted us a price and said carefully that it was the price to have the direct cremation handled “through the Spencer Funeral Home.” This is an example of what economists call price discrimination, which is defined as charging different prices for identical products. See FTC v. Anheuser-Busch, Inc., 363 U.S. 536, 549 (1960). There might be a few economists who would be sympathetic with what Spencer/Affordable is doing but few judges would likely be.
\item \textsuperscript{118} See Brad Dracen, Rocky Hill Funeral Director Pays $50,000 Fine, NBC CT (Jan. 20, 2017, 2:08 PM), http://www.nbcconnecticut.com/troubleshooters/Rocky-Hill-Funeral-Director-Pays50000-Fine411344425.html (discussing how the owner of Abbey Funeral Home and Cremation Services, Luke DiMaria, recently agreed to a consent order to resolve administrative violations by the Department of Public Health—charges that Luke DiMaria argues stem from his deviation from industry norms in pricing).
\end{itemize}
write their pre-trial brief, they would probably like an estimate of the cost of the embalming room law to all of Connecticut’s consumers, not just Hartford’s. Following the same procedure as for Hartford, we estimate that the embalming room requirement costs Connecticut’s consumers $11.1 million annually. Tables Three(a) and Three(b) present our estimates of the state-wide costs of ready-to-embalm laws.

Requiring all funeral homes, including branches, to have embalming preparation rooms leads to a lot of unused preparation rooms, a situation that is compelling because it defies common sense in such a visual way. But a branch exemption would not have helped Darin Corbett because he wanted to avoid putting an embalming room into his main establishment that was “housed in a building not built specifically for a funeral home.” Eighteen states require funeral home companies to have an embalming preparation rooms in one of their locations, making it difficult for new entrants to locate in buildings not expressly built to be funeral homes. It also makes it much more difficult for new entrants to locate in high visibility locations such as malls. Harrington and Treber discuss how this situation is analogous to the struggles that eyeglass companies once had to locate in malls because of state laws governing optometry.

Alternatively, suppose a public-interest law firm decides to challenge either New York or Minnesota’s laws that require all funeral directors to be embalmers. Their plaintiffs could be aspiring funeral directors who would like to arrange “green” funerals or to handle the funerals of immigrant groups who are opposed to embalming, such as the Somali community of Minneapolis. Neither of these groups have any use for embalming skills, so the funeral directors serving them would be compelled to incur the cost to obtain useless skills, just as many funeral homes are compelled to incur the cost of building useless preparation rooms. These costs are inevitably passed along to consumers in the form of higher prices. Our estimates suggest that

119. Harrington & Krynski, supra note 12, at 213.
the embalmer requirements in New York and Minnesota cost consumers in these states an additional $25.8 million and $7.4 million per year respectively.

Nearly all of the other state funeral regulations that have been challenged in the courts exist only in states with embalming room and/or embalmer requirements. The most prevalent regulation besides ready-to-embalm laws is the prohibition that cemeteries cannot own or operate funeral homes, often referred to as anti-combo laws within the industry. This prohibition exists in twelve states, all of which have an embalming room requirement and/or an embalmer requirement. Mortuary-cemetery combinations have the potential to benefit from economies of scope, a situation in which resources such as buildings and labor can be shared to produce multiple services at a lower average cost than could be obtained by producing the services separately. Competition would compel combination firms to pass at least part of these savings along to consumers. Thus, critics of anti-combo laws argue the laws are protectionist legislation designed to protect small, family-owned funeral homes against larger, corporate-owned competitors. In other words, the prohibition adds an additional layer of protection against the entry of potential lower-cost competitors, one built on top of the protection already provided by ready-to-embalm laws.

Table Four presents evidence on the effects of anti-combo laws on the average prices of direct cremations and traditional funerals in states with ready-to-embalm laws. Column one shows the average prices for direct cremations and traditional funerals in states that have both anti-combo and ready-to-embalm laws, and column two shows average prices for states that have not added anti-combo laws on top of their ready-to-embalm laws. Average

122. The cases in Pennsylvania and Minnesota challenged the embalming room regulation while the cases in Louisiana, Maryland, New Jersey, and Wisconsin challenged other regulations, but these latter states also have embalming room and/or embalmer regulations.

123. Harrington, supra note 6, at 200.

124. Harrington & Treber, supra note 60, at 47.


126. See infra Table 4. Since many state funeral regulations only exist in states with ready-to-embalm laws, we can only estimate their effects in states with ready-to-embalm laws. This is why we limit the sample in Table 4 to states with ready-to-embalm laws. It is also why we think that it is misleading to include other regulatory variables in the regressions presented in Table 2.
prices are substantially higher in the states with anti-combo laws: $439 higher for direct cremations and $483 higher for traditional funerals. This evidence stands in stark contrast with the claims of the proponents of anti-combo laws who argue that they protect consumers against the high prices of corporate chains that often cluster their funeral homes around cemetery-mortuary combinations.127

VI. Conclusion

Numbers matter. The Auditor General of Arizona twice recommended, once in 1983 and again in 2003, repealing the requirement that all funeral homes have embalming preparation rooms.128 Both times, the Auditor General used economic reasoning to try to persuade legislators to repeal the law, arguing that these rooms are expensive to build, and the increased costs are passed onto consumers via higher prices.129 How much more do consumers pay, a lot or a little? The Auditor General did not answer that question,130 which we believe helps explain why reporters, legislators, and two governors ignored her recommendations. In 2013, the Auditor General threw in the towel, choosing not to recommend that the legislature repeal the embalming room requirement in her most recent audit report on the performance of the Arizona Funeral Board.131

Our answer is that Arizona consumers as a group pay an additional $16.8 million annually because of Arizona's embalming room requirement. Individually, consumers pay an extra $554 for traditional funerals and an extra $203 for cremations, which correspond to a nine percent increase in the price of traditional

129. NORTON, supra note 128, at 15, 38.
130. See generally J. LEGIS. AUDIT COMM., STATE BD. OF FUNERAL DIRS. & EMBALMERS, 46-03-04, 1st Sess. (Ariz. 2003); NORTON, supra note 128, at 24-35.
funerals and a fourteen percent increase in the price of direct cremations. The Auditor General is likely to be skeptical of our estimates because the collective cost of $16.8 million is more than enough to pay for all the embalming rooms in the state in a single year. Our response is that her economic reasoning implicitly views the embalming room requirement as akin to a tax on a competitive industry. In contrast, we view it as one of the pillars of a regulatory structure that impedes the entry of competitors to protect existing funeral homes, many of which have very high costs.

Requiring all funeral homes, including branches, to have embalming preparation rooms is an egregiously wasteful law because it leads to a large number of unused embalming rooms, a number that is growing even larger as consumers increasingly choose cremation, and funeral home chains increasingly centralize their embalming activities.132 These laws still exist in eighteen states133 and are not rationally related to any legitimate purpose other than the protection of existing funeral homes, making them ripe for further court challenges.

Another eighteen states require funeral homes to have embalming preparation rooms but exempt branches that are within a certain number of miles of the flagship location.134 These laws generate fewer unused embalming preparation rooms but still impede the entry of cremation specialists and new competitors who could contract with other funeral homes to use their preparation rooms. As we discussed earlier, Oklahoma’s embalming law was tightened to prevent Darin Corbett, the owner of one of the lowest-cost funeral homes in Oklahoma City, from using the embalming room of a nearby funeral home.135 Our estimates imply that this law increases the price of direct cremations in Oklahoma by nine percent, and traditional funerals by eighteen percent.

132. Foos, supra note 5, at 1391–98.
133. See infra Tables 3a & 3b. The 18 states are Arizona, Connecticut, Delaware, Georgia, Hawaii, Idaho, Massachusetts, Michigan, North Carolina, New Hampshire, New Jersey, Nevada, New York, Pennsylvania, South Carolina, Tennessee, and Wyoming. Id.
134. Id. The 18 states that require embalming preparation rooms are Illinois, Indiana, Kansas, Louisiana, Maryland, Minnesota, Mississippi, Montana, North Dakota, Nebraska, Oklahoma, Rhode Island, Texas, Utah, Virginia, Vermont, Wisconsin, and West Virginia. Id.
135. Stafford, supra note 110.
Twenty-four states require funeral directors to be embalmers, which increases the monetary, temporal, and psychological costs of the training required to become a funeral director. A New York City funeral director, Amy Cunningham, argues that requiring funeral directors to be embalmers discriminates against people, like herself, who were called on to “help people get through the sadness of a death and emerge in one piece.” Most of the states that require funeral directors to be embalmers also require that prospective funeral directors serve a residency in which they embalm a specified number of bodies. Amy Cunningham says that she “get[s] letters from women in New York City who have graduated from mortuary school, passed the national board exam but cannot find a legal, reasonable residency.”

Requiring all funeral directors to be embalmers is another pillar of a regulatory structure that impedes the entry of competitors to protect existing funeral homes. Our estimates imply that this law increases the price of direct cremations in New York by fourteen percent.

Roughly two-thirds of states have a wide array of anti-competitive funeral regulations that are built on the foundation of ready-to-embalm laws. Some of the most egregious state funeral regulations are vulnerable to court challenges because they have no rational purpose beyond protecting existing funeral homes. Many of the other regulations are less vulnerable to court challenges because proponents can more easily dream up rationales for the laws besides protecting existing funeral homes. The best chance of reforming these laws is to convince journalists to write about them. Both court cases and newspaper exposés require finding sympathetic people who have been harmed by the laws. But they also require estimates of the cost of these laws to consumers. When it comes to reforming these laws, numbers matter.

138. Id.
139. Id.
140. Harrington, supra note 6, at 201–17.
Table 1. Direct Cremation and Traditional Funeral Prices in States with and without Ready-to-Embalm laws

<table>
<thead>
<tr>
<th></th>
<th>States with ready-to-embalm laws</th>
<th>States without ready-to-embalm laws</th>
<th>Difference (with and without ready-to-embalm laws)</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
</tr>
<tr>
<td>Price of a Direct Cremation ($)</td>
<td>2,220</td>
<td>1,837</td>
<td>363***</td>
</tr>
<tr>
<td></td>
<td>(23.13)</td>
<td>(33.19)</td>
<td>(118.36)</td>
</tr>
<tr>
<td>Observations</td>
<td>1,336</td>
<td>494</td>
<td></td>
</tr>
<tr>
<td>Price of a Traditional Funeral ($)</td>
<td>6,965</td>
<td>6,476</td>
<td>489***</td>
</tr>
<tr>
<td></td>
<td>(31.14)</td>
<td>(53.20)</td>
<td>(215.35)</td>
</tr>
<tr>
<td>Observations</td>
<td>1,309</td>
<td>484</td>
<td></td>
</tr>
</tbody>
</table>

Source: Prices were scraped from Parting.com in April 2017
Notes: The parentheses below the mean prices contain standard errors. The standard errors of the differences are robust standards errors corrected for clustering at the state level. * *** **** represent statistical significance at the 10, 5 and 1 percent levels in a two-sided test.
Table 2. Explaining Variation in Direct Cremation and Traditional Funeral Prices: Ordinary Least Squares Regression

<table>
<thead>
<tr>
<th></th>
<th>Price of a Direct Cremation</th>
<th>Price of a Traditional Funeral</th>
<th>Price of a Direct Cremation</th>
<th>Price of a Traditional Funeral</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
</tr>
<tr>
<td>Ready-to-embalm laws (1 = yes)</td>
<td>336.82***</td>
<td>358.03**</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(3.07)</td>
<td>(2.15)</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Embalming room law (1 = yes)</td>
<td></td>
<td>202.91</td>
<td>554.05***</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(1.52)</td>
<td>(3.29)</td>
<td></td>
</tr>
<tr>
<td>Embalming room law with branch exemption (1 = yes)</td>
<td></td>
<td></td>
<td>357.64***</td>
<td>563.62***</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>(3.74)</td>
<td>(3.86)</td>
</tr>
<tr>
<td>Funeral director must be embalmer law (1 = yes)</td>
<td></td>
<td>239.56**</td>
<td>117.65</td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td>(2.42)</td>
<td>(0.86)</td>
<td></td>
</tr>
<tr>
<td>Percentage of the population that adheres to a religion</td>
<td>3.50</td>
<td>13.68</td>
<td>-0.11</td>
<td>8.31</td>
</tr>
<tr>
<td></td>
<td>(0.47)</td>
<td>(1.39)</td>
<td>(-0.01)</td>
<td>(0.82)</td>
</tr>
<tr>
<td>Percentage of the population that is 65 or older</td>
<td>5.81</td>
<td>0.38</td>
<td>6.24</td>
<td>-0.29</td>
</tr>
<tr>
<td></td>
<td>(1.42)</td>
<td>(0.07)</td>
<td>(1.44)</td>
<td>(-0.06)</td>
</tr>
<tr>
<td>2018</td>
<td><strong>NUMBERS MATTER</strong></td>
<td>57</td>
<td></td>
<td></td>
</tr>
<tr>
<td>------</td>
<td>-------------------</td>
<td>----</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Percentage of the population that was born in the state</td>
<td>6.27*</td>
<td>1.38</td>
<td>4.92</td>
<td>1.12</td>
</tr>
<tr>
<td></td>
<td>(1.82)</td>
<td>(0.28)</td>
<td>(1.48)</td>
<td>(0.22)</td>
</tr>
<tr>
<td>Percentage of the adult population with a college degree</td>
<td>6.12**</td>
<td>9.83**</td>
<td>6.36**</td>
<td>11.48***</td>
</tr>
<tr>
<td></td>
<td>(2.03)</td>
<td>(2.32)</td>
<td>(2.12)</td>
<td>(2.73)</td>
</tr>
<tr>
<td>Median household income (thousands of dollars)</td>
<td>1.97</td>
<td>2.63</td>
<td>1.65</td>
<td>1.79</td>
</tr>
<tr>
<td></td>
<td>(1.00)</td>
<td>(1.05)</td>
<td>(0.86)</td>
<td>(0.75)</td>
</tr>
<tr>
<td>Cost of living index</td>
<td>5.15</td>
<td>20.76**</td>
<td>3.51</td>
<td>16.80*</td>
</tr>
<tr>
<td></td>
<td>(0.83)</td>
<td>(2.15)</td>
<td>(0.49)</td>
<td>(1.91)</td>
</tr>
<tr>
<td>Constant</td>
<td>368.29</td>
<td>3,249.14</td>
<td>659.63</td>
<td>3,636.34</td>
</tr>
<tr>
<td></td>
<td>(0.54)</td>
<td>(3.18)</td>
<td>(0.81)</td>
<td>(3.47)</td>
</tr>
<tr>
<td>Observations</td>
<td>1,828</td>
<td>1,791</td>
<td>1,828</td>
<td>1,791</td>
</tr>
<tr>
<td>Rsquared</td>
<td>0.08</td>
<td>0.12</td>
<td>0.10</td>
<td>0.13</td>
</tr>
</tbody>
</table>

**Notes:** Robust t-statistics corrected for clustering at the state level are presented in parentheses below the coefficient estimates. Direct cremation and traditional funeral prices were scraped from Parting.com in April 2017. 
***, **, and * denote 1%, 5%, and 10% levels of statistical significance respectively.
Table 3a. Annual Cost to Consumers of Embalming Room and Embalmer Requirements (Alabama – Montana)

<table>
<thead>
<tr>
<th>State</th>
<th>All funeral homes to have an embalming room</th>
<th>Funeral homes (except branches) to have an embalming room</th>
<th>Funeral directors be licensed embalmers</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Ala.</td>
<td>$23,583,904</td>
<td></td>
<td></td>
<td>$23,583,904</td>
</tr>
<tr>
<td>Ariz.</td>
<td>$16,769,110</td>
<td>$10,220,284</td>
<td></td>
<td>$26,989,395</td>
</tr>
<tr>
<td>Conn.</td>
<td>$11,060,037</td>
<td>$5,329,835</td>
<td></td>
<td>$16,389,872</td>
</tr>
<tr>
<td>Del.</td>
<td>$3,272,581</td>
<td>$1,430,052</td>
<td></td>
<td>$4,702,633</td>
</tr>
<tr>
<td>Ga.</td>
<td>$32,125,448</td>
<td>$12,269,775</td>
<td></td>
<td>$44,395,222</td>
</tr>
<tr>
<td>Haw.</td>
<td>$3,438,555</td>
<td></td>
<td></td>
<td>$3,438,555</td>
</tr>
<tr>
<td>Idaho</td>
<td>$4,033,490</td>
<td>$2,204,400</td>
<td></td>
<td>$6,237,891</td>
</tr>
<tr>
<td>Ill.</td>
<td>$49,379,388</td>
<td>$17,597,018</td>
<td></td>
<td>$66,976,406</td>
</tr>
<tr>
<td>Ind.</td>
<td>$28,384,950</td>
<td>$9,467,296</td>
<td></td>
<td>$37,852,246</td>
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<tr>
<td>Iowa</td>
<td></td>
<td>$4,573,512</td>
<td></td>
<td>$4,573,512</td>
</tr>
<tr>
<td>Kan.</td>
<td>$11,303,231</td>
<td></td>
<td></td>
<td>$11,303,231</td>
</tr>
<tr>
<td>La.</td>
<td>$21,738,385</td>
<td></td>
<td></td>
<td>$21,738,385</td>
</tr>
<tr>
<td>Me.</td>
<td></td>
<td>$2,685,859</td>
<td></td>
<td>$2,685,859</td>
</tr>
<tr>
<td>Md.</td>
<td>$22,836,246</td>
<td>$7,860,429</td>
<td></td>
<td>$30,696,675</td>
</tr>
<tr>
<td>State</td>
<td>All funeral homes to have an embalming room</td>
<td>Funeral homes (except branches) to have an embalming room</td>
<td>Funeral directors be licensed embalmers</td>
<td>Total</td>
</tr>
<tr>
<td>---------</td>
<td>---------------------------------------------</td>
<td>----------------------------------------------------------</td>
<td>----------------------------------------</td>
<td>-------------</td>
</tr>
<tr>
<td></td>
<td>(1)</td>
<td>(2)</td>
<td>(3)</td>
<td>(4)</td>
</tr>
<tr>
<td>Neb.</td>
<td>$7,014,590</td>
<td>$2,462,527</td>
<td>$9,477,117</td>
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</tr>
<tr>
<td>Nev.</td>
<td>$6,240,079</td>
<td></td>
<td></td>
<td>$6,240,079</td>
</tr>
<tr>
<td>N.H.</td>
<td>$3,415,687</td>
<td>$2,172,746</td>
<td>$5,588,433</td>
<td></td>
</tr>
<tr>
<td>N.J.</td>
<td>$29,352,160</td>
<td>$12,036,607</td>
<td>$41,388,767</td>
<td></td>
</tr>
<tr>
<td>N.M.</td>
<td></td>
<td>$3,172,166</td>
<td>$3,172,166</td>
<td></td>
</tr>
<tr>
<td>N.Y.</td>
<td>$63,786,928</td>
<td>$25,705,983</td>
<td>$89,492,912</td>
<td></td>
</tr>
<tr>
<td>N.D.</td>
<td>$2,841,249</td>
<td>$971,181</td>
<td>$3,812,430</td>
<td></td>
</tr>
<tr>
<td>Okla.</td>
<td>$18,260,230</td>
<td>$6,205,361</td>
<td>$24,465,592</td>
<td></td>
</tr>
</tbody>
</table>

Table 3b. Annual Cost to Consumers of Embalming Room and Embalmer Requirements (Nebraska - Wyoming)
<table>
<thead>
<tr>
<th>State</th>
<th>Federal</th>
<th>State</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Pa.</td>
<td>$51,878,647</td>
<td>$21,855,492</td>
<td>$73,734,138</td>
</tr>
<tr>
<td>R.I.</td>
<td>$4,547,148</td>
<td>$1,614,847</td>
<td>$6,161,995</td>
</tr>
<tr>
<td>S.C.</td>
<td>$18,588,350</td>
<td></td>
<td>$18,588,350</td>
</tr>
<tr>
<td>Tenn.</td>
<td>$27,604,172</td>
<td></td>
<td>$27,604,172</td>
</tr>
<tr>
<td>Tex.</td>
<td>$86,032,398</td>
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<td>$86,032,398</td>
</tr>
<tr>
<td>Utah</td>
<td>$7,690,407</td>
<td>$2,354,939</td>
<td>$10,045,346</td>
</tr>
<tr>
<td>Vt.</td>
<td>$2,242,310</td>
<td></td>
<td>$2,242,310</td>
</tr>
<tr>
<td>Va.</td>
<td>$29,850,730</td>
<td>$10,527,877</td>
<td>$40,378,607</td>
</tr>
<tr>
<td>W. Va.</td>
<td>$10,889,280</td>
<td>$3,362,636</td>
<td>$14,251,916</td>
</tr>
<tr>
<td>Wis.</td>
<td>$21,691,588</td>
<td>$8,641,231</td>
<td>$30,332,819</td>
</tr>
<tr>
<td>Wyo.</td>
<td>$1,447,549</td>
<td></td>
<td>$1,447,549</td>
</tr>
<tr>
<td>United States</td>
<td>$386,844,754</td>
<td>$361,735,582</td>
<td>$960,544,073</td>
</tr>
</tbody>
</table>
Table 4. Direct Cremation and Traditional Funeral Prices in Ready-to-Embalm Law States with and without a Law Prohibiting Mortuary-Cemetery Combinations

<table>
<thead>
<tr>
<th></th>
<th>Readymto-embalm law states with a law prohibiting mortuary-cemetery combinations</th>
<th>Readymto-embalm law states without a law prohibiting mortuary-cemetery combinations</th>
<th>Difference (RTE states with and without mortuary-cemetery prohibition)</th>
</tr>
</thead>
<tbody>
<tr>
<td>Price of a Direct Cremation ($)</td>
<td>2,460</td>
<td>2,021</td>
<td>439**</td>
</tr>
<tr>
<td></td>
<td>(34.28)</td>
<td>(29.40)</td>
<td>(147.62)</td>
</tr>
<tr>
<td>Observations</td>
<td>544</td>
<td>792</td>
<td>1,336</td>
</tr>
<tr>
<td>Price of a Traditional Funeral ($)</td>
<td>7,249</td>
<td>6,766</td>
<td>483***</td>
</tr>
<tr>
<td></td>
<td>(44.24)</td>
<td>(41.46)</td>
<td>(205.51)</td>
</tr>
<tr>
<td>Observations</td>
<td>537</td>
<td>772</td>
<td>1,309</td>
</tr>
</tbody>
</table>

Source: Prices were scraped from Parting.com in April 2017
Notes: Standard errors are reported in parentheses. The standard errors of the differences are robust standards errors corrected for clustering at the state level. **,**,** represent statistical significance at the 10, 5 and 1 percent levels in at two-sided test.