

1 SB410
2 176788-1
3 By Senators Figures, Beasley, Dunn, Coleman-Madison, Sanford,
4 Ward, Marsh, Livingston, Williams and Waggoner
5 RFD: Banking and Insurance
6 First Read: 12-APR-16

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8 SYNOPSIS: Under existing law, the Alabama Board of
9 Funeral Service is responsible for licensing and
10 regulating funeral establishments, funeral
11 directors, and embalmers in the state.

12 This bill would delete from the definitions
13 of funeral directing and funeral director the sale
14 of funeral merchandise or funeral supplies.

15
16 A BILL
17 TO BE ENTITLED
18 AN ACT

19
20 To amend Section 34-13-1, Code of Alabama 1975,
21 relating to the Alabama Board of Funeral Service; to delete
22 from the definitions of funeral directing and funeral director
23 the sale of funeral merchandise or funeral supplies.

24 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

25 Section 1. Section 34-13-1 of the Code of Alabama
26 1975, is amended to read as follows:

27 "§34-13-1.

1 "(a) For purposes of this chapter, the following
2 terms shall have the following meanings:

3 "(1) ACCREDITED SCHOOL or COLLEGE OF MORTUARY
4 SCIENCE. A school or college approved by the Alabama Board of
5 Funeral Service and which maintains a course of instruction of
6 not less than 48 calendar weeks or four academic quarters or
7 college terms and which gives a course of instruction in the
8 fundamental subjects including, but not limited to, the
9 following:

10 "a. Mortuary management and administration.

11 "b. Legal medicine and toxicology as it pertains to
12 funeral directing.

13 "c. Public health, hygiene, and sanitary science.

14 "d. Mortuary science, to include embalming
15 technique, in all its aspects; chemistry of embalming, color
16 harmony; discoloration, its causes, effects, and treatment;
17 treatment of special cases; restorative art; funeral
18 management; and professional ethics.

19 "e. Anatomy and physiology.

20 "f. Chemistry, organic and inorganic.

21 "g. Pathology.

22 "h. Bacteriology.

23 "i. Sanitation and hygiene.

24 "j. Public health regulations.

25 "k. Other courses of instruction in fundamental
26 subjects as may be prescribed by the Alabama Board of Funeral
27 Service.

1 "(2) AMERICAN BOARD OF FUNERAL SERVICE EDUCATION.

2 That funeral service educational organization which is an
3 agency granted official recognition by the United States
4 Secretary of Education and which is composed of members
5 representing the American Association of College of Mortuary
6 Science, the Conference of Funeral Service Examining Board of
7 the United States, Inc., the National Association of Colleges
8 of Mortuary Science, and the University Mortuary Science
9 Education Association and which has as its object the
10 furtherance of education in the field of funeral service and
11 in fields necessary to, or allied with, the field of funeral
12 service, and further to formulate standards of funeral service
13 education and to grant accreditation to qualified schools and
14 colleges of mortuary science and to do all things incidental
15 to the foregoing.

16 "(3) APPRENTICE EMBALMER or EMBALMER'S APPRENTICE.

17 Any person engaged in the study of the art of embalming under
18 the instructions and supervision of a licensed embalmer
19 practicing in this state.

20 "(4) APPRENTICE FUNERAL DIRECTOR or FUNERAL

21 DIRECTOR'S APPRENTICE. Any person operating under or in
22 association with a funeral director for the purpose of
23 learning the business or profession of funeral director, to
24 the end that he or she may become licensed under this chapter.

25 "(5) AUTHORIZING AGENT. A person at least 18 years

26 of age, except in the case of a surviving spouse or parent,

1 who is legally entitled to order the cremation or final
2 disposition of particular human remains.

3 "(6) BOARD. The Alabama Board of Funeral Service.

4 "(7) CEMETERY. A place dedicated to and used or
5 intended to be used for the permanent interment of human
6 remains. It may be either land or earth interment; a mausoleum
7 for vault or crypt entombment; a structure or place used or
8 intended to be used for the interment of cremated remains;
9 cryogenic storage; or any combination of one or more thereof.

10 "(8) CEMETERY AUTHORITY. Any individual, person,
11 firm, profit or nonprofit corporation, trustee, partnership,
12 society, religious society, church, association or
13 denomination, municipality, or other group or entity, however
14 organized, insofar as they or any of them may now or hereafter
15 establish, own, operate, lease, control, or manage one or more
16 cemeteries, burial parks, mausoleums, columbariums, or any
17 combination or variation thereof, or hold lands or structures
18 for burial grounds or burial purposes in this state and engage
19 in the operation of a cemetery, including any one or more of
20 the following: The care and maintenance of a cemetery; the
21 interment, entombment, and memorialization of the human dead
22 in a cemetery; the sale, installation, care, maintenance, or
23 any combination thereof, with respect of monuments, markers,
24 foundations, memorials, burial vaults, urns, crypts,
25 mausoleums, columbariums, flower vases, floral arrangements,
26 and other cemetery accessories, for installation or use within
27 a cemetery; and the supervision and conduct of funeral and

1 burial services within the bounds of the cemetery. It is the
2 legislative intent of this chapter that a cemetery authority,
3 to the extent that it engages in any of the activities
4 described in this subdivision, shall not be affected by this
5 chapter and shall not be deemed to have entered into or
6 engaged in the practice of funeral directing, embalming, or
7 funeral establishment operation.

8 "(9) CONVICTION. The entry of a plea of guilty or a
9 guilty verdict rendered by any court of competent
10 jurisdiction, excluding traffic violations.

11 "(10) CREMATION. The technical process, using heat
12 and flame, that reduces human remains to bone fragments. The
13 reduction takes place through heat and evaporation. Cremation
14 shall include the processing, and may include the
15 pulverization, of the bone fragments.

16 "(11) CREMATIONIST. A person who performs the
17 procedure of cremation.

18 "(12) CREMATORY. A building or portion of a building
19 that houses a retort and that may house a holding facility for
20 purposes of cremation and as part of a funeral establishment.

21 "(13) EMBALMER. Any person engaged or holding
22 himself or herself out as engaged in the business, practice,
23 science, or profession of embalming, whether on his or her own
24 behalf or in the employ of a registered and licensed funeral
25 director.

26 "(14) EMBALMING. The practice, science, or
27 profession, as commonly practiced, of preserving,

1 disinfecting, and preparing by application of chemicals or
2 other effectual methods, human dead for burial, cremation, or
3 transportation.

4 "(15) FUNERAL. A ceremony for celebrating,
5 sanctifying, or remembering the life of a person who has died.
6 A funeral may be divided into the following two parts:

7 "a. The funeral service, which may take place at a
8 funeral home, church, or other place.

9 "b. The disposition, which may take place by the
10 grave, tomb, mausoleum, or crematory where the body of the
11 decedent is to be buried or cremated.

12 "(16) FUNERAL DIRECTING. The practice of directing
13 or supervising funerals, the practice of preparing dead human
14 bodies for burial by means other than embalming, or the
15 preparation for the disposition of dead human bodies; the
16 making of arrangements or providing for funeral services or
17 the making of financial arrangements for the rendering of
18 these services ~~or the sale of this merchandise or supplies;~~
19 the provision or maintenance of a place for the preparation
20 for disposition of dead human bodies; or the use of the terms
21 funeral director, undertaker, mortician, funeral parlor, or
22 any other term from which can be implied the practice of
23 funeral directing; or the holding out to the public that one
24 is a funeral director or engaged in a practice described in
25 this subdivision.

26 "(17) FUNERAL DIRECTOR. A person required to be
27 licensed to practice the profession of funeral directing under

1 the laws of this state, who meets the public, who plans
2 details of funeral services with members of the family and
3 minister or any other person responsible for such planning, or
4 who directs, is in charge, or apparent charge of, and
5 supervises funeral service in a funeral home, church, or other
6 place; who enters into the making, negotiation, or completion
7 of financial arrangements for ~~funerals~~funeral services,
8 ~~including, but not limited to, the sale and selection of~~
9 ~~funeral supplies,~~ or who uses in connection with the
10 profession of funeral directing the terms funeral director,
11 undertaker, funeral counselor, mortician, or any other term or
12 picture or combination thereof when considered in context in
13 which used, from which can be implied the practicing of the
14 profession of funeral directing or that the person using such
15 term or picture can be implied to be holding himself or
16 herself out to the public as being engaged in the profession
17 of funeral directing; and for all purposes under Alabama law,
18 a funeral director is considered a professional. For the
19 purposes of this chapter, the term does not include any
20 cemetery authority.

21 "(18) FUNERAL ESTABLISHMENTS. The term includes any
22 funeral home or mortuary service located at a specific street
23 address where the profession of funeral directing, embalming,
24 or cremation is practiced in the care, planning, and
25 preparation for burial or cremation or transportation of human
26 dead. The term does not include any cemetery or land or
27 structure owned, operated, leased, controlled, or managed by

1 any cemetery authority as a cemetery. A funeral establishment
2 shall consist of and maintain all of the following facilities:

3 "a. A preparation room equipped with sanitary
4 nonporous floor and walls, necessary drainage and ventilation,
5 and containing operating embalming equipment, necessary
6 approved tables, instruments, hot and cold running water,
7 containers or receptacles for soiled linen or clothing, and
8 supplies for the preparation and embalming of dead human
9 bodies for burial, cremation, and transportation.

10 "b. A display room containing a stock of adult
11 caskets and funeral supplies displayed in full size, cuts,
12 photographs, or electronic images. At no time shall less than
13 eight different adult size caskets be on the premises.

14 "c. At least one operating funeral coach or hearse
15 properly licensed and equipped for transporting human remains
16 in a casket or urn.

17 "d. If engaged in the practice of cremation, at
18 least one operable retort for cremation and an adequate supply
19 of urns for display and sale.

20 "e. A room suitable for public viewing or other
21 funeral services that is able to accommodate a minimum of 100
22 people.

23 "f. An office for holding arrangement conferences
24 with relatives or authorizing agents.

25 "(19) FUNERAL SUPPLIES or FUNERAL MERCHANDISE.
26 Caskets made of any material for use in the burial or
27 transportation of human dead; outer receptacles, when sold by

1 a funeral director, including burial vaults and urns, for
2 cremated human remains; clothing used to dress human dead when
3 sold by a funeral director; and all equipment and
4 accouterments normally required for the preparation for burial
5 or funeral and other disposition of human dead.

6 "(20) GROSS IMMORALITY. Willful, flagrant, or
7 shameful immorality or showing a moral indifference to the
8 opinions of the good and respectable members of the community
9 and to the just obligations of the position held by the
10 offender.

11 "(21) MANAGING EMBALMER. A licensed embalmer who has
12 full charge, control, and supervision of all activities
13 involving the preparation room and embalming.

14 "(22) MANAGING FUNERAL DIRECTOR. A licensed funeral
15 director who has full charge, control, and supervision of all
16 activities involving funeral directing at a funeral
17 establishment.

18 "(23) MORAL TURPITUDE. Any unlawful sexual or
19 violent act, or any act involving theft, theft of services,
20 extortion, receiving stolen property, identity theft, forgery,
21 fraud, tampering with records, bribery, perjury, or any
22 similar act in any jurisdiction.

23 "(24) MORTUARY SCIENCE. The scientific,
24 professional, and practical aspects, with due consideration
25 given to accepted practices, covering the care, preparation
26 for burial, or transportation of dead human bodies, which
27 shall include the preservation and sanitation of the bodies

1 and restorative art and those aspects related to public
2 health, jurisprudence, and good business administration.

3 "(25) MORTUARY SERVICE. A location with a specific
4 street address where embalming or cremation, or both, is
5 practiced for a licensed funeral establishment and where no
6 services or merchandise are sold directly or at retail to the
7 public. A mortuary service shall consist of and maintain all
8 of the following facilities:

9 "a. A preparation room equipped with sanitary
10 nonporous floor and walls, operating embalming equipment, and
11 necessary drainage and ventilation and containing necessary
12 approved tables, instruments, hot and cold running water,
13 containers or receptacles for soiled linen or clothing, and
14 supplies for the preparation and embalming of dead human
15 bodies for burial, cremation, and transportation.

16 "b. At least one operating motor vehicle properly
17 licensed and equipped for transporting human remains in a
18 casket or urn.

19 "c. If engaged in the practice of cremation, at
20 least one operable retort for cremation.

21 "(26) OPERATOR. A person, corporation, firm, legal
22 representative, or other organization owning or operating a
23 funeral establishment.

24 "(27) PRACTICAL EMBALMERS. Any person who has been
25 actively and continuously engaged or employed in the practice
26 of embalming under the supervision of a licensed embalmer for
27 four consecutive years immediately preceding May 1, 1975, and

1 has been issued a license as a practical embalmer under the
2 grandfather provisions of this chapter.

3 "(28) PROCESSING or PULVERIZATION. The reduction of
4 identifiable bone fragments after the completion of the
5 cremation process to unidentifiable bone fragments or
6 granulated particles by manual or mechanical means.

7 "(29) RETORT. An enclosed space within which the
8 cremation process takes place.

9 "(30) TEMPORARY CONTAINER. A receptacle for cremated
10 remains, usually composed of cardboard, plastic, or similar
11 material, that can be closed in a manner that prevents the
12 leakage or spillage of the cremated remains or the entrance of
13 foreign material, and is a single container of sufficient size
14 to hold the cremated remains until an urn is acquired or the
15 cremated remains are scattered or buried.

16 "(31) URN. A receptacle designed to encase cremated
17 remains.

18 "(b) Nothing in this chapter shall require a funeral
19 director or funeral establishment to have or provide a chapel
20 or to restrict the conduct of funeral services from a church
21 or chapel.

22 "(c) Nothing contained in the definition of funeral
23 directing, or in any other provision of this chapter, shall be
24 applicable to or regulate or restrict cemetery authorities in
25 the conduct of activities of a cemetery authority; or be
26 applicable to or regulate or restrict the carrying on by any
27 cemetery authority of any activities, functions, practices,

1 and services which may now or hereafter (1) constitute any
2 part of the operation or management of a cemetery or of the
3 property of a cemetery or (2) otherwise consist of the
4 interment or entombment of the human dead or memorialization
5 of the human dead in any manner within a cemetery property."

6 Section 2. This act shall become effective on the
7 first day of the third month following its passage and
8 approval by the Governor, or its otherwise becoming law.