

1 HB273
2 148627-1
3 By Representative Brown
4 RFD: Boards, Agencies and Commissions
5 First Read: 14-FEB-13

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8 SYNOPSIS: Under existing law, the Alabama Board of
9 Funeral Service licenses and regulates funeral
10 establishments, funeral directors, and embalmers in
11 the state.

12 This bill would require each funeral
13 establishment to have the casket price clearly
14 noted on each full-size and cut casket and on each
15 photograph and electronic image of a casket.

16 This bill would delete the requirement that
17 quarterly meetings be held for the purpose of
18 examining applicants and would authorize the board
19 to delegate the responsibility of administering the
20 licensure examination.

21 This bill would provide further for the
22 conducting of inspections of funeral establishments
23 and would specify the types of violations for which
24 a citation may be immediately issued and the amount
25 of fines that may be imposed upon a funeral
26 establishment.

1 This bill would also specify a procedure for
2 a licensee of the board to request an
3 administrative hearing before the board to contest
4 a citation and fine.

5
6 A BILL
7 TO BE ENTITLED
8 AN ACT

9
10 To amend Sections 34-13-9, 34-13-22, 34-13-56, and
11 34-13-111, Code of Alabama 1975, relating to the Alabama Board
12 of Funeral Service; to require each funeral establishment to
13 have the casket price clearly noted on each full-size and cut
14 casket and on each photograph and electronic image of a
15 casket; to delete the requirement that quarterly meetings be
16 held for the purpose of examining applicants; to authorize the
17 board to delegate the responsibility of administering the
18 licensure examination; to provide further for the conducting
19 of inspections of funeral establishments; to specify the types
20 of violations for which a citation may be immediately issued
21 and the amount of fines that may be imposed; and to specify a
22 procedure for a licensee of the board to request an
23 administrative hearing before the board to contest a citation
24 and fine.

25 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

1 Section 1. Sections 34-13-9, 34-13-22, 34-13-56, and
2 34-13-111 of the Code of Alabama 1975, are amended to read as
3 follows:

4 "§34-13-9.

5 "Funeral service, cemetery service, and funeral
6 merchandise pricing shall conform to rules established by the
7 Federal Trade Commission and each funeral establishment shall
8 have a card or brochure in each full-size and cut casket and a
9 clear statement on each photograph and electronic image of a
10 casket stating the unit price of that casket.

11 "§34-13-22.

12 "The Alabama Board of Funeral Service shall hold not
13 less than one meeting quarterly ~~for the purpose of examining~~
14 ~~applicants for licenses~~, such meeting to be held at such time
15 and place as the board may determine after notice of such
16 meeting has been given in the manner prescribed herein at
17 least 15 days prior to such meeting. The board ~~shall not have~~
18 ~~power to~~ may delegate to any person or entity who is not a
19 member of the board the authority to conduct or administer an
20 examination for a license. The board may hold such other
21 meetings as it may deem necessary. Five or more members shall
22 comprise a quorum. The board shall not meet on the premises of
23 any embalming school or college of mortuary science; and, if
24 any such meeting is held, all the proceedings of such meeting
25 shall be void. If any application for license under this
26 chapter is pending, the applicant or applicants shall be

1 afforded the right to take the examination required hereunder
2 at the date and place of such quarterly meeting.

3 "§34-13-56.

4 "(a) The board may refuse to grant, refuse to renew,
5 or suspend or revoke a license after proper hearing and notice
6 to the licensee, upon the licensee's being found guilty of any
7 of the following:

8 "(1) Conviction of a crime involving moral
9 turpitude.

10 "(2) Unprofessional conduct, which is defined to
11 include any of the following:

12 "a. Misrepresentation or fraud in the conduct of the
13 business or the profession of a funeral director or embalmer.

14 "b. False or misleading advertising as a funeral
15 director or embalmer or knowingly engaging in any advertising
16 which is misleading or inaccurate in any material particular.

17 "c. Solicitation of dead human bodies by the
18 licensee, his or her agents, assistants, or employees, from
19 medical professionals or clergy, whether the solicitation
20 occurs after death or while death is impending.

21 "d. Employment by the licensee of a person or
22 persons to be used for the purpose of obtaining or soliciting
23 funeral directing or embalming business.

24 "e. Employment directly or indirectly of any
25 apprentice, agent, assistant, embalmer, employee, or other
26 person, on part or full time or on commission, for the purpose
27 of calling upon individuals or institutions where a death has

1 occurred or is imminent by whose influence dead human bodies
2 may be turned over to a particular funeral director or
3 embalmer or funeral establishment, or both.

4 "f. The buying of business by the licensee, his or
5 her agents, assistants, or employees.

6 "g. Gross immorality.

7 "h. Aiding or abetting an unlicensed person to
8 practice funeral directing or embalming.

9 "i. Using profane, indecent, or obscene language in
10 the presence of a dead human body, or within the immediate
11 hearing of the family or relative of a deceased whose body has
12 not yet been interred or otherwise disposed of.

13 "j. Solicitation or acceptance by a licensee of any
14 commission or bonus or rebate in consideration of recommending
15 or causing a dead human body to be disposed of in any
16 mausoleum or cemetery.

17 "k. Any violation of this chapter.

18 "l. Any violation of state law or municipal or
19 county ordinance or regulation affecting the handling,
20 custody, care, or transportation of dead human bodies.

21 "m. Fraud or misrepresentation in obtaining a
22 license.

23 "n. Refusing to promptly surrender the custody of a
24 dead human body, upon the express order and payment for
25 services rendered of the person lawfully entitled to the
26 custody thereof.

1 "o. Performing services in a professional capacity
2 as a funeral director or embalmer, or both, for any unlicensed
3 funeral establishment operating in violation of this chapter.

4 "p. Being intoxicated or under the influence of
5 illegal drugs while on duty at a funeral establishment.

6 "q. Willfully retaining or willfully failing to
7 account for any property of a decedent.

8 "r. Knowingly and willfully signing a certificate as
9 having embalmed or prepared a body for burial when, in fact,
10 the services were not performed by the licensee.

11 "s. Failure to give full cooperation to the board or
12 its designees, agents, or other representatives in the
13 performance of official duties of the board. Failure to give
14 full cooperation includes, but is not limited to, any of the
15 following:

16 "(i) Not furnishing any relevant papers or documents
17 requested by or for the board.

18 "(ii) Not furnishing, in writing, an adequate
19 explanation relating to a matter contained in a complaint
20 filed with the board against the licensee.

21 "(iii) Not responding to a subpoena issued by the
22 board, without good cause shown, whether or not the licensee
23 is the party charged in any proceeding before the board.

24 "(iv) Not providing reasonable access to the board
25 or an authorized agent or representative of the board for the
26 performance of reviews or inspections at facilities or places
27 utilized by the licensee in the practice of funeral service or

1 funeral directing or in performing any other activity
2 regulated by the board.

3 "(v) Failing to provide information within a
4 specific time as required by the board or an authorized agent
5 or representative of the board.

6 "(vi) Failing to cooperate with the board or an
7 authorized agent or representative of the board in the
8 investigation of any alleged misconduct or interfering with a
9 board investigation through the willful misrepresentation of
10 facts.

11 "(vii) Deceiving or attempting to deceive the board
12 regarding any matter under investigation, including the
13 altering or destroying of any records.

14 "(viii) Failure, without good cause, to cooperate
15 with any request from the board to appear before the board.

16 "(ix) Violating any statute, ordinance, or rule of
17 the state or any board, agency, or political subdivision of
18 the state affecting the registration of deaths or the
19 handling, custody, care, or transportation of dead human
20 bodies.

21 "(x) Violating any statute, ordinance, or rule of
22 the state or any board, agency, or political subdivision of
23 the state affecting the registration of deaths or the
24 handling, custody, care, or transportation of dead human
25 bodies.

26 "(xi) Demonstrating bad faith, incompetence, or
27 untrustworthiness or dishonest, fraudulent, or improper

1 dealing or any other violation of this chapter or any rule
2 promulgated by the board or promulgated by the Federal Trade
3 Commission relative to the practice of funeral service or
4 funeral directing.

5 "(b) In addition to the disciplinary actions
6 authorized in subsection (a), the board may levy and collect
7 administrative fines for violations of this chapter or the
8 rules or regulations of the board in an amount not less than
9 five hundred dollars (\$500) nor more than two thousand five
10 hundred dollars (\$2,500) for each violation, unless otherwise
11 provided in this chapter.

12 "§34-13-111.

13 "(a) No funeral establishment or branch thereof for
14 the preparation, disposition, and care of dead human bodies
15 shall be opened or maintained unless duly licensed by the
16 board. No funeral establishment or branch shall be moved
17 without obtaining a new funeral establishment license from the
18 board.

19 "(b) The board shall set a fee, not exceeding one
20 hundred fifty dollars (\$150), that shall be in addition to the
21 license fee for the first inspection of any funeral
22 establishment seeking a license under Section 34-13-72 made
23 for the purpose of determining whether such funeral
24 establishment has fulfilled the requirements for licensure
25 pursuant to this chapter. The board shall set a fee, not
26 exceeding one hundred fifty dollars (\$150), for each
27 reinspection necessitated by failure of any funeral

1 establishment to pass such first inspection. The board, or a
2 representative of the board, shall annually conduct a minimum
3 of one unannounced inspection of funeral establishments and
4 branches, with an inspection fee of not more than one hundred
5 dollars (\$100). The inspection fee shall be submitted to the
6 board within 45 days after the inspection. Any funeral
7 establishment that does not submit the inspection fee within
8 45 days shall be charged a late penalty fee, as established by
9 the board. A funeral establishment, or branch thereof, that is
10 used for the preparation, disposition, and care of dead human
11 bodies shall meet and conform to this chapter and to such
12 other lawful standards and requirements as may be determined
13 by rule of the board in furtherance of this chapter; and, for
14 failure to do so, the board may revoke such license in
15 accordance with the procedure set forth in this chapter.

16 "(c) Any violation under this section is a violation
17 of minimum standards and a threat to the health, safety, and
18 welfare of the public. A funeral establishment or mortuary
19 service licensed by the board shall pay a fine to the board
20 for each violation of this section. If the inspector or a
21 representative of the board finds a violation during an
22 inspection, he or she shall immediately issue a citation
23 listing each violation. After a citation has been issued, the
24 licensee shall either remit the amount of the fine to the
25 board or submit a written request for an administrative
26 hearing before the board. A request for an administrative
27 hearing before the board shall be received by the board not

1 later than 30 calendar days after the day the citation is
2 issued. Failure to either pay the fine or timely request an
3 administrative hearing before the board shall cause additional
4 disciplinary action to be taken against the licensee. The
5 requirements for inspections and the fines for violations
6 under this section are as follows:

7 "(1) A license issued under this chapter shall be
8 current and on public display in an area not restricted from
9 the public travel. The fine for violating this subdivision is
10 two hundred dollars (\$200).

11 "(2) Each license issued under this chapter shall be
12 displayed in the place of business or employment of the
13 licensee. The fine for violating this subdivision is one
14 hundred dollars (\$100).

15 "(3) Each funeral establishment shall have a
16 selection or display room for persons to view available
17 funeral merchandise or supplies. In addition to statutory
18 requirements, the display room shall be clean and neatly
19 arranged and shall contain a stock of adult caskets and
20 funeral supplies displayed in full size or cut caskets or
21 photographs or electronic images of caskets. The fine for
22 violating this subdivision is two hundred dollars (\$200).

23 "(4) At no time shall less than eight different
24 adult full-size caskets be on the premises of the funeral
25 establishment. The fine for violating this subdivision is
26 three hundred dollars (\$300) per casket below the minimum
27 number.

1 "(5) Each funeral establishment shall have a card or
2 brochure in each full-size and cut casket and on each
3 photograph and electronic image of a casket stating the unit
4 price of that casket. The fine for violating this subdivision
5 is one hundred dollars (\$100) per casket without a card or
6 brochure.

7 "(6) Each funeral establishment shall have at least
8 one public rest room. Each rest room shall have a nonporous
9 floor, clean walls, and shall be equipped with hot and cold
10 running water, roll or disposable towels, and necessary
11 lighting for adequate visibility. The fine for violating this
12 subdivision is one hundred dollars (\$100).

13 "(7) No public rest room shall be used as a storage
14 area for mops, brooms, or any other such items. The fine for
15 violating this subdivision is one hundred dollars (\$100).

16 "(8)a. The preparation room of a funeral
17 establishment shall be equipped with all of the following:

18 "(i) One approved embalming table.

19 "(ii) Correctly operating embalming equipment.

20 "(iii) A selection of all professional instruments
21 necessary for embalming and the preparation of dead human
22 bodies.

23 "(iv) Nonporous floors and walls.

24 "(v) Hot and cold running water.

25 "(vi) A working ventilation fan.

26 "(vii) A suitable container for waste disposal.

1 "(viii) A suitable container for soiled linen or
2 clothing.

3 "(ix) Proper drainage.

4 "b. The fine for violating item (v), (vii), (viii),
5 or (xi) is one hundred dollars (\$100) per violation. The fine
6 for violating item (i), (ii), (iii), (iv), (vi), or (ix) is
7 two hundred dollars (\$200) per violation.

8 "c. The embalming room and all of its contents,
9 including all instruments and tables, shall be kept clean of
10 blood when not in use. The fine for violating this paragraph
11 is two hundred dollars (\$200).

12 "d. At no time shall the preparation room be used as
13 a storage area. The fine for violating this paragraph is one
14 hundred dollars (\$100).

15 "(9) Each funeral establishment in the state shall
16 keep a current record of each human dead body embalmed at the
17 establishment and shall retain such record for a period of not
18 less than four years. The record may be in simple log form and
19 shall contain the name of the deceased, the date of embalming,
20 the time the embalming procedure began and ended, and the
21 signature of the embalmer. The fine for violating this
22 subdivision is two hundred dollars (\$200).

23 "(10) For the purpose of identifying dead human
24 bodies, each funeral establishment shall comply with Section
25 22-19-5 by affixing a permanent ankle bracelet to each dead
26 human body in the possession or custody of the funeral

1 establishment. The fine for violating this subdivision is one
2 hundred dollars (\$100) per body not identified.

3 "(11)a. The general interior of a funeral
4 establishment shall be maintained in a way to assure all of
5 the following:

6 "(i) That there are no rotten or deteriorated floor
7 boards or flooring which is subject to public travel.

8 "(ii) That all outside openings are screened,
9 covered, or otherwise sealed to prevent the entrance of
10 insects or rodents.

11 "(iii) That any openings between the preparation
12 room and public areas are sealed to prevent fumes from
13 escaping into those public areas.

14 "(iv) That all public areas are well maintained with
15 a clean and attractive appearance including the repair and
16 proper maintenance of all walls, ceilings, and floors and the
17 absence of holes, scaling paint, or any other deterioration.

18 "b. The fine for violating item (i), (ii), or (iii)
19 is one hundred dollars (\$100) per violation. The fine for
20 violating item (iv) is two hundred dollars (\$200) per
21 violation.

22 "(12)a. The general exterior of a funeral
23 establishment shall be maintained in a way to assure all of
24 the following:

25 "(i) That the premises is free of litter and debris.

1 "(ii) That all areas subject to public travel are
2 free of objects or other matter which could cause possible
3 injury.

4 "(iii) That all roofing or overhead coverings are
5 well maintained to prevent any leaks to the interior of the
6 funeral establishment.

7 "b. The fine for violating items (i), (ii), or (iii)
8 is two hundred dollars (\$200) per violation.

9 "(13) Each funeral establishment shall have at least
10 one operating and properly licensed funeral coach or hearse,
11 equipped for transporting human remains in a casket or urn, on
12 the premises. The fine for violating this subdivision is three
13 hundred dollars (\$300).

14 "(14) Each mortuary service shall have at least one
15 operating motor vehicle, properly licensed and equipped for
16 transporting human remains in a casket or urn. The fine for
17 violating this subdivision is three hundred dollars (\$300).

18 "(15) Each funeral establishment shall allow
19 reasonable access to the board, or an authorized agent or
20 representative of the board, for inspecting the facilities of
21 the funeral establishment. The fine for violating this
22 subdivision is three hundred dollars (\$300).

23 "(d) In addition to the disciplinary actions
24 authorized in subsection (c), the board may refuse to grant,
25 refuse to renew, or suspend or revoke a license, after proper
26 hearing and notice to the licensee, upon the licensee being
27 found guilty of any violation of this chapter. The board may

1 levy and collect administrative fines for any violation of
2 this chapter, or the rules or regulations of the board, in an
3 amount not less than five hundred dollars (\$500) nor more than
4 two thousand five hundred dollars (\$2,500) for each violation
5 of this chapter for which the licensee has been found guilty.

6 "~~(c)~~ (e) Applications for transfer of a license to
7 another location in the same county shall be made upon blanks
8 furnished by the board and shall be accompanied by a fee of
9 not more than seventy-five dollars (\$75). The fee for a new
10 branch or location for a funeral establishment shall be ~~\$250~~
11 two hundred fifty dollars (\$250). Any change in ownership
12 shall be immediately reported to the board."

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