

1           HB212  
2        181344-1  
3        By Representative Brown  
4        RFD: Boards, Agencies and Commissions  
5        First Read: 14-FEB-17

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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: provide further for  
13 definitions; revise the membership of the board;  
14 change the name of the executive secretary of the  
15 board to the executive director of the board;  
16 include the grandchildren of the decedent in the  
17 priority list of those persons eligible to act as  
18 an authorizing agent for the decedent; require all  
19 appeals of public hearing determinations to be  
20 taken to the Circuit Court of Montgomery County;  
21 require criminal history background checks of all  
22 prospective licensees of the board; require a  
23 managing funeral director to live within 75 miles  
24 of the funeral establishment; require the biennial  
25 renewal of all licenses; impose a biennial  
26 administrative fee on all continuing education  
27 providers; shorten the time frame in which an

expired license may be reinstated from six months to 30 days; provide further for the public hearing process; provide further for the advertising of the presence of a crematory; would require a managing funeral director or managing embalmer to be employed at each funeral establishment; provide for the licensing and regulation of crematories and the licensure of cremationists; provide further for apprenticeships; and make additional technical and nonsubstantive changes.

Amendment 621 of the Constitution of Alabama of 1901 prohibits a general law whose purpose or effect would be to require a new or increased expenditure of local funds from becoming effective with regard to a local governmental entity without enactment by a 2/3 vote unless: it comes within one of a number of specified exceptions; it is approved by the affected entity; or the Legislature appropriates funds, or provides a local source of revenue, to the entity for the purpose.

The purpose or effect of this bill would be to require a new or increased expenditure of local funds within the meaning of Amendment 621. However, the bill does not require approval of a local governmental entity or enactment by a 2/3 vote to become effective because it comes within one of the specified exceptions contained in Amendment 621.

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2 A BILL

3 TO BE ENTITLED

4 AN ACT

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6 To amend Section 34-13-1, as amended by Act  
7 2016-265, 2016 Regular Session, and Sections 34-13-3, 34-13-8,  
8 34-13-10, 34-13-11, 34-13-20, 34-13-21, 34-13-23, 34-13-25,  
9 34-13-26, 34-13-29, 34-13-31, 34-13-51, 34-13-52, 34-13-53,  
10 34-13-54, 34-13-55, 34-13-56, 34-13-57, 34-13-70, 34-13-71,  
11 34-13-74, 34-13-91, 34-13-110, 34-13-111, 34-13-112,  
12 34-13-113, 34-13-115, 34-13-116, 34-13-120, 34-13-121,  
13 34-13-130, 34-13-131, 34-13-132, and 34-13-134, Code of  
14 Alabama 1975, and to add Sections 34-13-56.1, 34-13-117,  
15 34-13-120.1, and 34-13-123 to the Code of Alabama 1975,  
16 relating to the Alabama Board of Funeral Service and the  
17 Funeral Service Practice Act; to provide further for  
18 definitions; to provide further for the membership of the  
19 board; to change the name of the executive secretary of the  
20 board to the executive director of the board; to include the  
21 grandchildren of the decedent in the priority list of those  
22 persons eligible to act as authorizing agent for the decedent;  
23 to require all appeals of public hearing determinations to be  
24 taken to the Circuit Court of Montgomery County; to require  
25 criminal history background checks of all prospective  
26 licensees of the board; to require a managing funeral director  
27 to live within 75 miles of the funeral establishment; to

require the biennial renewal of all licenses; to impose a biennial administrative fee on all continuing education providers; to shorten the time frame in which an expired license may be reinstated from six months to 30 days; to provide further for the public hearing process; to provide further for the advertising of the presence of a crematory; to require a managing funeral director or managing embalmer to be employed at each funeral establishment; to provide for the licensing and regulation of crematories and the licensure of cremationists; to provide further for apprenticeships; to make technical corrections; and in connection therewith would have as its purpose or effect the requirement of a new or increased expenditure of local funds within the meaning of Amendment 621 of the Constitution of Alabama of 1901.

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

Section 1. Sections 34-13-1, as amended by Act 2016-265, 2016 Regular Session, 34-13-3, 34-13-8, 34-13-10, 34-13-11, 34-13-20, 34-13-21, 34-13-23, 34-13-25, 34-13-26, 34-13-29, 34-13-31, 34-13-51, 34-13-52, 34-13-53, 34-13-54, 34-13-55, 34-13-56, 34-13-57, 34-13-70, 34-13-71, 34-13-74, 34-13-91, 34-13-110, 34-13-111, 34-13-112, 34-13-113, 34-13-115, 34-13-116, 34-13-120, 34-13-121, 34-13-130, 34-13-131, 34-13-132, and 34-13-134 of the Code of Alabama 1975, are amended to read as follows:

"§34-13-1.

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

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

8                         "a. Mortuary management and administration.  
9                         "b. Legal medicine and toxicology as it pertains to  
10 funeral directing.  
11                         "c. Public health, hygiene, and sanitary science.  
12                         "d. Mortuary science, to include embalming  
13 technique, in all its aspects; chemistry of embalming, color  
14 harmony; discoloration, its causes, effects, and treatment;  
15 treatment of special cases; restorative art; funeral  
16 management; and professional ethics.  
17                         "e. Anatomy and physiology.  
18                         "f. Chemistry, organic and inorganic.  
19                         "g. Pathology.  
20                         "h. Bacteriology.  
21                         "i. Sanitation and hygiene.  
22                         "j. Public health regulations.  
23                         "k. Other courses of instruction in fundamental  
24 subjects as may be prescribed by the Alabama Board of Funeral  
25 Service.

1                   "(2) ALKALINE HYDROLYSIS. The technical process that  
2                   reduces human remains to bone fragments using heat, water, and  
3                   chemical agents.

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

19                   "(4) (3) APPRENTICE EMBALMER or EMBALMER'S  
20                   APPRENTICE. Any person engaged in the study of the art of  
21                   embalming under the instructions and supervision of a licensed  
22                   embalmer practicing in this state.

23                   "(5) (4) APPRENTICE FUNERAL DIRECTOR or FUNERAL  
24                   DIRECTOR'S APPRENTICE. Any person operating under or in  
25                   association with a funeral director for the purpose of  
26                   learning the business or profession of funeral director, to  
27                   the end that he or she may become licensed under this chapter.

1                   " (6) AUTHORIZING AGENT. A person at least 18  
2 years of age, except in the case of a surviving spouse or  
3 parent, who is legally entitled to order the cremation or  
4 final disposition of particular human remains.

5                   " (7) BOARD. The Alabama Board of Funeral Service.

6                   " (8) CASH ADVANCE ITEMS. Any item of service or  
7 merchandise described to a purchaser using the term cash  
8 advance, accommodation, cash disbursement, or similar term. A  
9 cash advance item is also any item obtained from a third party  
10 and paid for by a funeral provider on behalf of a purchaser.  
11 Cash advance items include, but are not limited to, all of the  
12 following:

13                   " a. Cemetery or crematory services.

14                   " b. Pallbearers.

15                   " c. Public, or other, transportation.

16                   " d. Clergy honoraria.

17                   " e. Flowers.

18                   " f. Musicians or singers.

19                   " g. Nurses.

20                   " h. Obituary notices.

21                   " i. Funeral programs.

22                   " j. Gratuities.

23                   " k. Death certificates.

24                   " l. Outer burial containers.

25                   " m. Cemetery plots.

26                   " n. Escorts.

1                   "(9) CASKET. A rigid container designed for the  
2                   encasement of human remains.

3                   "(10)~~(7)~~ CEMETERY. A place dedicated to and used or  
4                   intended to be used for the permanent interment of human  
5                   remains. It may be either land or earth interment; a mausoleum  
6                   for vault or crypt entombment; a structure or place used or  
7                   intended to be used for the interment of cremated remains;  
8                   cryogenic storage; or any combination of one or more thereof.

9                   "(11)~~(8)~~ CEMETERY AUTHORITY. Any individual, person,  
10                  firm, profit or nonprofit corporation, trustee, partnership,  
11                  society, religious society, church, association or  
12                  denomination, municipality, or other group or entity, however  
13                  organized, insofar as they or any of them may now or hereafter  
14                  establish, own, operate, lease, control, or manage one or more  
15                  cemeteries, burial parks, mausoleums, columbariums, or any  
16                  combination or variation thereof, or hold lands or structures  
17                  for burial grounds or burial purposes in this state and engage  
18                  in the operation of a cemetery, including any one or more of  
19                  the following: The care and maintenance of a cemetery; the  
20                  interment, entombment, and memorialization of the human dead  
21                  in a cemetery; the sale, installation, care, maintenance, or  
22                  any combination thereof, with respect of monuments, markers,  
23                  foundations, memorials, burial vaults, urns, crypts,  
24                  mausoleums, columbariums, flower vases, floral arrangements,  
25                  and other cemetery accessories, for installation or use within  
26                  a cemetery; and the supervision and conduct of funeral and  
27                  burial services within the bounds of the cemetery. ~~It is the~~

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

7 " (12) (9) CONVICTION. The entry of a plea of guilty  
8 or a guilty verdict rendered by any court of competent  
9 jurisdiction, excluding traffic violations.

10 " (13) CREMATED REMAINS. Human remains recovered  
11 after the completion of the cremation process, including  
12 pulverization, which leaves only bone fragments reduced to  
13 unidentifiable dimensions.

14 " (14) (10) CREMATION. The technical process, using  
15 heat and flame, flames, or chemical agents, that reduces human  
16 remains to bone fragments. The reduction takes place through  
17 heat and evaporation. Cremation shall include the processing,  
18 and may include the pulverization, of the bone fragments.

19 " (15) (11) CREMATIONIST. A person who performs  
20 licensed by the board to perform the procedure of cremation.

21 " (16) CREMATION CHAMBER. The retort or vessel used  
22 to reduce human remains to bone fragments.

23 " (17) CREMATION CONTAINER. The container in which  
24 human remains are transported to a crematory, in which human  
25 remains are placed in upon arrival at a crematory, or for  
26 storage and placement in a cremation chamber for cremation.

1                   "(18)~~(12)~~ CREMATORY. A building or portion of a  
2 building that houses a ~~retort~~ cremation chamber and that may  
3 house a holding facility for purposes of cremation and as part  
4 of a funeral establishment.

5                   "(19)~~(13)~~ EMBALMER. Any person engaged or holding  
6 himself or herself out as engaged in the business, practice,  
7 science, or profession of embalming, whether on his or her own  
8 behalf or in the employ of a registered and licensed funeral  
9 director.

10                  "(20)~~(14)~~ EMBALMING. The practice, science, or  
11 profession, as commonly practiced, of preserving,  
12 disinfecting, and preparing by application of chemicals or  
13 other effectual methods, human dead for burial, cremation, or  
14 transportation.

15                  "(21)~~(15)~~ FUNERAL. A ceremony for celebrating,  
16 sanctifying, or remembering the life of a person who has died.  
17 A funeral may be divided into the following two parts:

18                  a. The funeral service, which may take place at a  
19 funeral home, church, or other place.

20                  b. The committal service or disposition, which may  
21 take place by the grave, tomb, mausoleum, or crematory where  
22 the body of the decedent is to be buried or cremated.

23                  "(22) FUNERAL ARRANGEMENTS. The completing of  
24 funeral service arrangements, cremation arrangements, and the  
25 financial details of a funeral at the time of death. The term  
26 includes the collection of vital statistic information, death  
27 certificate information, obituary and funeral notice

1                   completion, the completion of a statement of funeral goods and  
2                   services selected, organizing of funeral and memorial services  
3                   for families, and the ordering of cash advance items.

4                   "(23)(16) FUNERAL DIRECTING. The practice of  
5                   directing or supervising funerals, the practice of preparing  
6                   dead human bodies for burial by means other than embalming, or  
7                   the preparation for the disposition of dead human bodies; the  
8                   making of funeral arrangements or providing for funeral  
9                   services or the making of financial arrangements for the  
10                  rendering of these services; the provision or maintenance of a  
11                  place for the preparation for disposition of dead human  
12                  bodies; or the use of the terms funeral director, undertaker,  
13                  mortician, funeral parlor, or any other term from which can be  
14                  implied the practice of funeral directing; or the holding out  
15                  to the public that one is a funeral director or engaged in a  
16                  practice described in this subdivision.

17                  "(24)(17) FUNERAL DIRECTOR. A person required to be  
18                  licensed to practice the profession of funeral directing under  
19                  the laws of this state, who ~~meets~~ consults with the public,  
20                  who plans details of funeral services with members of the  
21                  family and minister or any other person responsible for such  
22                  planning, or who directs, is in charge, or apparent charge of,  
23                  and supervises funeral service in a funeral home, church, or  
24                  other place; who enters into the making, negotiation, or  
25                  completion of financial arrangements for funeral services, or  
26                  who uses in connection with the profession of funeral  
27                  directing the terms funeral director, undertaker, funeral

1 counselor, mortician, or any other term or picture or  
2 combination thereof when considered in context in which used,  
3 from which can be implied the practicing of the profession of  
4 funeral directing or that the person using such term or  
5 picture can be implied to be holding himself or herself out to  
6 the public as being engaged in the profession of funeral  
7 directing; and for all purposes under Alabama law, a funeral  
8 director is considered a professional. For the purposes of  
9 this chapter, the term does not include any cemetery  
10 authority.

11                   " (25) ~~(18)~~ FUNERAL ESTABLISHMENTS. The term includes  
12 any funeral home or mortuary service located at a specific  
13 street address where the profession of funeral directing,  
14 embalming, or cremation is practiced in the care, planning,  
15 and preparation for burial, or cremation, or transportation of  
16 human dead. ~~The term does not include any cemetery or land or~~  
17 ~~structure owned, operated, leased, controlled, or managed by~~  
18 ~~any cemetery authority as a cemetery.~~ A funeral establishment  
19 shall consist of and maintain all of the following facilities:

20                   " a. A preparation room equipped with sanitary  
21 nonporous floor and walls, necessary drainage and ventilation,  
22 and containing operating embalming equipment, necessary  
23 approved tables, instruments, hot and cold running water,  
24 containers or receptacles for soiled linen or clothing, and  
25 supplies for the preparation and embalming of dead human  
26 bodies for burial, cremation, and transportation.

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

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

"d. If engaged in the practice of cremation, ~~at least one operable retort for cremation the establishment shall satisfy all crematory requirements provided in this chapter and have on site an adequate supply of urns for display and sale.~~

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

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

"(26)-(19) FUNERAL SUPPLIES or FUNERAL MERCHANDISE.

Caskets made of any material for use in the burial or transportation of human dead; outer receptacles, when sold by a funeral director, including burial vaults and urns, for cremated human remains; clothing used to dress human dead when sold by a funeral director; and all equipment and accouterments normally required for the preparation for burial or funeral and other disposition of human dead.

"(27) GROSS IMMORALITY. Willful, flagrant, or shameful immorality or showing a moral indifference to the

1       opinions of the good and respectable members of the community  
2       and to the just obligations of the position held by the  
3       offender.

4               "(28) HOLDING ROOM. Either of the following:

5               "a. A room within a funeral establishment that  
6       satisfies the requirements of a branch location as provided in  
7       this chapter or board rule, for the retention of human remains  
8       before disposition.

9               "b. A room within a crematory facility, designated  
10       for the retention of human remains before and after cremation,  
11       that is not accessible to the public.

12               "(29) MANAGING CREMATIONIST. A licensed funeral  
13       director and cremationist who has full charge, control, and  
14       supervision of all activities involving cremation at a funeral  
15       establishment or crematory.

16               "(30) (21) MANAGING EMBALMER. A licensed embalmer who  
17       has full charge, control, and supervision of all activities  
18       involving the preparation room and embalming.

19               "(31) (22) MANAGING FUNERAL DIRECTOR. A licensed  
20       funeral director who has full charge, control, and supervision  
21       of all activities involving funeral directing ~~at~~ for a funeral  
22       establishment.

23               "(32) (23) MORAL TURPITUDE. Any unlawful sexual or  
24       violent act, or any act involving theft, theft of services,  
25       extortion, receiving stolen property, identity theft, forgery,  
26       fraud, tampering with records, bribery, perjury, or any  
27       similar act in any jurisdiction.

1                         "(33) ~~(24)~~ MORTUARY SCIENCE. The scientific,  
2 professional, and practical aspects, with due consideration  
3 given to accepted practices, covering the care, preparation  
4 for burial, or transportation of dead human bodies, which  
5 shall include the preservation and sanitation of the bodies  
6 and restorative art and those aspects related to public  
7 health, jurisprudence, and good business administration.

8                         "(34) ~~(25)~~ MORTUARY SERVICE. A location with a  
9 specific street address where embalming or cremation, or both,  
10 is practiced for a licensed funeral establishment and where no  
11 services or merchandise are sold directly or at retail to the  
12 public. A mortuary service shall consist of and maintain all  
13 of the following facilities:

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

21                         "b. At least one operating motor vehicle properly  
22 licensed and equipped for transporting human remains in a  
23 casket or urn.

24                         "c. If engaged in the practice of cremation, ~~at~~  
25 ~~least one operable retort for cremation the establishment~~  
26 ~~shall satisfy all requirements for a crematory provided in~~  
27 ~~this chapter.~~

1                   "(35)~~(26)~~ OPERATOR. A person, corporation, firm,  
2 legal representative, or other organization owning or  
3 operating a funeral establishment.

4                   "(36)~~(27)~~ PRACTICAL EMBALMERS EMBALMER. Any person  
5 who has been actively and continuously engaged or employed in  
6 the practice of embalming under the supervision of a licensed  
7 embalmer for four consecutive years immediately preceding May  
8 1, 1975, and has been issued a license as a practical embalmer  
9 under the grandfather provisions of this chapter.

10                  "(37)~~(28)~~ PROCESSING or PULVERIZATION. The reduction  
11 of identifiable bone fragments after the completion of the  
12 cremation process to unidentifiable bone fragments or  
13 granulated particles by manual or mechanical means.

14                  "(29) RETORT. ~~An enclosed space within which the~~  
15 ~~cremation process takes place.~~

16                  "(38)~~(30)~~ TEMPORARY CONTAINER. A receptacle for  
17 cremated remains, usually composed of cardboard, plastic, or  
18 similar material, that can be closed in a manner that prevents  
19 the leakage or spillage of the cremated remains or the  
20 entrance of foreign material, and is a single container of  
21 sufficient size to hold the cremated remains until an urn is  
22 acquired or the cremated remains are scattered or buried.

23                  "(39)~~(31)~~ URN. A receptacle designed to encase  
24 cremated remains.

25                  "(b) Nothing in this chapter shall require a funeral  
26 director or funeral establishment to have or provide a chapel

1 or to restrict the conduct of funeral services from a church  
2 or chapel.

3 ~~"(c) Nothing contained in the definition of funeral~~  
4 ~~directing, or in any other provision of this chapter, shall be~~  
5 ~~applicable to or regulate or restrict cemetery authorities in~~  
6 ~~the conduct of activities of a cemetery authority; or be~~  
7 ~~applicable to or regulate or restrict the carrying on by any~~  
8 ~~cemetery authority of any activities, functions, practices,~~  
9 ~~and services which may now or hereafter (1) constitute any~~  
10 ~~part of the operation or management of a cemetery or of the~~  
11 ~~property of a cemetery or (2) otherwise consist of the~~  
12 ~~interment or entombment of the human dead or memorialization~~  
13 ~~of the human dead in any manner within a cemetery property.~~

14 "§34-13-3.

15 ~~"This chapter does not apply to any cemetery or~~  
16 ~~cemetery authority or to any public institution, medical~~  
17 ~~college, county medical society, anatomical association,~~  
18 ~~college of embalming, or any officer thereof, or to any other~~  
19 ~~recognized person carrying out the provision of the statutes~~  
20 ~~of the State of Alabama prescribing the conditions under which~~  
21 ~~indigent human dead bodies are held subject for scientific or~~  
22 ~~anatomical study; provided, that nothing Nothing in this~~  
23 ~~section chapter shall be construed to give any cemetery or~~  
24 ~~cemetery authority or any other person or entity the right to~~  
25 ~~enter into or engage in any funeral home operation or the~~  
26 ~~practice of embalming or funeral directing or any related~~  
27 ~~funeral home or funeral directing activities. Nor shall this~~

1 chapter include any temporary or occasional or extra help to  
2 assist in the conduct of a funeral employed on such basis by  
3 a funeral director, provided such funeral is under the ~~general~~  
4 direct supervision of a licensed funeral director.

5 "§34-13-8.

6 "On application of any person and payment of the  
7 cost thereof, the executive ~~secretary~~ director of the board  
8 shall furnish, under the seal of the board and signed by the  
9 executive ~~secretary~~ director, a certified copy of any license,  
10 rule, regulation, or order. In any court or proceeding such  
11 copy shall be prima facie evidence of the fact of the issuance  
12 of such license, regulation, rule, or order and that such is  
13 effective as of the date of such certificate.

14 "§34-13-10.

15 "Unless otherwise provided herein, violation of any  
16 part of this chapter shall be a Class A misdemeanor which may  
17 be prosecuted and shall be punishable as such under the laws  
18 of Alabama. ~~It is further provided that those actions~~  
19 ~~specifically enumerated in subdivisions (2)a. through (2)f.,~~  
20 ~~(2)h., (2)j., (2)m., and (2)n. of Section 34-13-56 shall be~~  
21 ~~punishable as a misdemeanor and may be prosecuted accordingly.~~

22 "§34-13-11.

23 "(a) A person, who is at least 18 years of age and  
24 of sound mind, may enter into a contract to act as authorizing  
25 agent and direct the location, manner, and conditions of  
26 disposition of remains and arrange for funeral goods and  
27 services to be provided upon death. Except as otherwise

1 provided in subsection (b), the right to control the  
2 disposition of the remains of a deceased person as an  
3 authorizing agent, including the location, manner, and  
4 conditions of disposition and arrangements for funeral goods  
5 and services to be provided, shall vest in the following  
6 persons in the priority listed and the order named, provided  
7 the person is at least 18 years of age and of sound mind:

8                 "(1) The person designated by the decedent as  
9 authorized to direct disposition pursuant to Public Law No.  
10 109-163, Section 564, as listed on the decedent's United  
11 States Department of Defense Record of Emergency Data, DD Form  
12 93, or its successor form, if the decedent died while serving  
13 on active duty in any branch of the United States Armed  
14 Forces, United States Reserve Forces, or National Guard.

15                 "(2)a. The person designated by the decedent in an  
16 affidavit executed in accordance with paragraph b.

17                 ""b. Any person, at least 18 years of age and of  
18 sound mind, may authorize another person to control the  
19 disposition of his or her remains pursuant to an affidavit  
20 executed before a notary public in substantially the following  
21 form:

22                 ""State of Alabama

23                 "County of \_\_\_\_\_

24                 ""I, \_\_\_\_\_ designate \_\_\_\_\_ to  
25 control the disposition of my remains upon my death. I \_\_\_\_\_ have  
26 \_\_\_\_\_ have not attached specific directions concerning the  
27 disposition of my remains. If specific directions are

1 attached, the designee shall substantially comply with those  
2 directions, provided the directions are lawful and there are  
3 sufficient resources in my estate to carry out those  
4 directions.

5 "Subscribed and sworn to before me this \_\_\_\_ day of  
6 the month of \_\_\_\_ of the year \_\_\_\_.

7 " \_\_\_\_\_ (signature of notary public)"

8 "(3) The surviving spouse.

9 "(4) The sole surviving child of the decedent or, if  
10 there is more than one surviving child, a majority of the  
11 surviving children. Less than a majority of the surviving  
12 children may be vested with the rights of this section if  
13 reasonable efforts have been made to notify all surviving  
14 children of the instructions and a majority of the surviving  
15 children are not aware of any opposition to the instructions.

16 "(5) The sole surviving grandchild of the decedent  
17 or, if there is more than one surviving grandchild, a majority  
18 of the surviving grandchildren. Less than a majority of the  
19 surviving grandchildren may be vested with the rights of this  
20 section if reasonable efforts have been made to notify all  
21 surviving grandchildren of the instructions and a majority of  
22 the surviving grandchildren are not aware of any opposition to  
23 the instructions.

24 "(6)~~5~~ The surviving parent or parents of the  
25 decedent. If one surviving parent is absent, the remaining  
26 parent shall be vested with the rights and duties of this

1 section after reasonable efforts in locating the absent  
2 surviving parent have been unsuccessful.

3                   "(7)-(6) The surviving sibling of the decedent or, if  
4 there is more than one surviving sibling, a majority of the  
5 surviving siblings. Less than a majority of the surviving  
6 siblings may be vested with the rights and duties of this  
7 section if reasonable efforts have been made to notify all  
8 surviving siblings of the instructions and a majority of the  
9 surviving siblings are not aware of any opposition to the  
10 instructions.

11                   "(8)-(7) The surviving grandparent of the decedent  
12 or, if there is more than one surviving grandparent, a  
13 majority of the surviving grandparents. Less than a majority  
14 of the surviving grandparents may be vested with the rights  
15 and duties of this section if reasonable efforts have been  
16 made to notify all surviving grandparents of the instructions  
17 and a majority of the surviving grandparents are not aware of  
18 any opposition to the instructions.

19                   "(9)-(8) The guardian of the decedent at the time of  
20 the death of the decedent, if a guardian had been appointed.

21                   "(10)-(9) The personal representative of the estate  
22 of the decedent.

23                   "(11)-(10) The person in the classes of the next  
24 degree of kinship, in descending order, under the laws of  
25 descent and distribution to inherit the estate of the  
26 decedent. If there is more than one person of the same degree,

1 any person of that degree may exercise the right of  
2 disposition.

3                   "(12) ~~(11)~~ The public officer, administrator, or  
4 employee responsible for arranging the final disposition of  
5 the remains of the decedent if the disposition of the remains  
6 is the responsibility of the state or a political subdivision  
7 of the state.

8                   "(13) ~~(12)~~ Any other person willing to assume the  
9 responsibility of acting on and arranging the final  
10 disposition of the remains of the decedent, including the  
11 funeral director that has custody of the body, in the absence  
12 of any person specified in subdivisions (1) to ~~(11)~~ (12),  
13 inclusive. The person shall attest in writing that good faith  
14 efforts to contact the persons specified in subdivisions (1)  
15 to ~~(11)~~ (12), inclusive, have been unsuccessful.

16                   "(b) The right of disposition shall be forfeited and  
17 passed to the next qualifying person listed in subsection (a),  
18 in any of the following circumstances:

19                   "(1) The person is charged with first or second  
20 degree murder or voluntary manslaughter in connection with the  
21 death of the decedent and the charges are known by the  
22 mortician. If the charges against the person are dismissed or  
23 the person is acquitted of the charges, the right of  
24 disposition shall be reinstated.

25                   "(2) The person does not exercise his or her right  
26 of disposition within two days after notification of the death

1 of the decedent or within three days after the death of the  
2 decedent, whichever is earlier.

3 "(3) If the person is the spouse of the decedent and  
4 a petition to dissolve the marriage was pending at the time of  
5 death of the decedent.

6 "(4) If the judge of probate court determines,  
7 pursuant to subsection (c), that the person entitled to the  
8 right of disposition and the decedent were estranged at the  
9 time of death. For the purposes of this subdivision, estranged  
10 means a physical and emotional separation that has existed for  
11 such a period of time that an absence of affection, trust, and  
12 regard for the decedent is clearly demonstrated.

13 "(c) Notwithstanding subsections (a) and (b), the  
14 judge of probate of the county of residence of the decedent  
15 may award the right of disposition to the person the judge of  
16 probate determines to be the most fit and appropriate to  
17 manage the right of disposition, and may make decisions  
18 regarding the remains of the decedent if the persons  
19 possessing the right of disposition do not agree. If two or  
20 more persons who possess an equal right of disposition are not  
21 able by majority vote to agree upon the disposition of the  
22 remains of the decedent, any of those persons or the funeral  
23 establishment with custody of the remains may file a petition  
24 asking the judge of probate to make a determination in the  
25 matter. In making such a determination, the judge of probate  
26 shall consider all of the following:

1                         "(1) The reasonableness and practicality of the  
2 proposed funeral and disposition arrangements.

3                         "(2) The degree of the personal relationship between  
4 the decedent and each person possessing a right of  
5 disposition.

6                         "(3) The financial ability and willingness of each  
7 person possessing a right of disposition to pay the cost of  
8 the funeral and disposition arrangements.

9                         "(4) The convenience and needs of other family  
10 members and friends who wish to pay their respects and the  
11 degree to which the funeral arrangements would allow maximum  
12 participation by all who wish to pay their respects.

13                         "(5) The desires of the decedent.

14                         "(d) Absent negligence, wantonness, recklessness, or  
15 deliberate misconduct in the event of a dispute regarding the  
16 right of disposition, a funeral establishment may not be held  
17 liable for refusing to accept remains, for interring, or for  
18 otherwise disposing of the remains of a decedent or for  
19 completing arrangements for the final disposition of remains  
20 unless and until the funeral establishment receives an order  
21 from the judge of probate, or other written agreement signed  
22 by all persons possessing a right of disposition, regarding  
23 the final disposition of the remains. If a funeral  
24 establishment retains remains for final disposition during a  
25 disagreement, the funeral establishment may embalm or  
26 refrigerate and shelter the body, or both, to preserve the  
27 body pending the final decision of the judge of probate. The

1 funeral establishment may add the cost of embalming or  
2 refrigeration and sheltering, or both, to the final  
3 disposition cost. If a funeral establishment files a petition  
4 pursuant to subsection (c), the funeral establishment may add  
5 any associated legal fees and court costs to the cost of final  
6 disposition. This section may not be construed to require or  
7 impose a duty upon a funeral establishment to bring an action  
8 pursuant to this section. A funeral establishment and its  
9 employees may not be held criminally or civilly liable for not  
10 bringing an action pursuant to this section.

11 "(e) Except to the degree that it may be considered  
12 by the judge of probate pursuant to subdivision (3) of  
13 subsection (c), the fact that a person has paid or has agreed  
14 to pay for all or a part of funeral and final disposition  
15 arrangements does not give that person a greater voice in  
16 right of disposition decisions than he or she would have had  
17 otherwise. The personal representative of the estate of a  
18 decedent, by virtue of being the personal representative, does  
19 not have a greater voice in right of disposition decisions  
20 than he or she would have had otherwise.

21 "§34-13-20.

22 "(a) There is established the Alabama Board of  
23 Funeral Service, consisting of ~~seven~~ nine members, each of  
24 whom shall be citizens of the United States and residents of  
25 the State of Alabama. ~~All members of the former Alabama~~  
26 ~~Embalming Board who are holding office on September 10, 1975,~~  
27 ~~by virtue of that office, shall become members of the Alabama~~

1 Board of Funeral Service for the term ending December 31,  
2 1976. Not more than one member of the Alabama Board of Funeral  
3 Service may reside in the same district as created under  
4 Section 34-13-21, and if more than one member of the State  
5 Embalming Board resides in one district at the time of the  
6 organization of the board, the Governor shall select one  
7 member of the Embalming Board to be a member of the original  
8 Alabama Board of Funeral Service from the district, and the  
9 other member of the Embalming Board shall not be eligible for  
10 membership on the board.

11 "(b) At a special meeting called for such purpose,  
12 to be held in Montgomery, within 45 days from September 10,  
13 1975, the Alabama Funeral Directors Association, Incorporated,  
14 and the Alabama Funeral Directors and Morticians Association,  
15 Incorporated, in joint meeting, shall nominate three qualified  
16 persons for each of the positions as members of the original  
17 board of the Alabama Board of Funeral Service which are not  
18 filled by members of the State Embalming Board. The names of  
19 such persons so nominated shall be promptly certified by the  
20 secretary of the Alabama Funeral Directors Association,  
21 Incorporated, and the Alabama Funeral Directors and Morticians  
22 Association, Incorporated, to the Governor who shall appoint  
23 the members of the board from among the persons so nominated.  
24 Not more than four members of the board at any time may be  
25 members of the same race and the membership of the board shall  
26 be inclusive and reflect The appointing authorities shall  
27 coordinate their appointments to assure board membership is

1           inclusive and reflects the racial, gender, geographic,  
2           urban/rural, and economic diversity of the state. At no time  
3           may more than five members of the entire membership of the  
4           board be of the same race or both consumer members be of the  
5           same race. The board shall annually report to the Legislature  
6           by the second legislative day of each regular session the  
7           extent to which the board has complied with the diversity  
8           provisions provided for in this subsection. Four members shall  
9           be appointed for a term ending December 31, 1977, and the  
10          board shall be constituted so that the terms of three members  
11          of the board shall end December 31, 1976, and the terms of  
12          four members shall end December 31, 1977. The terms of the  
13          members of the State Embalming Board, who become members of  
14          the Alabama Board of Funeral Service under this chapter, shall  
15          expire December 31, 1976, unless there are more than three  
16          such members, in which event, the Governor shall designate  
17          which of the three members of the State Embalming Board shall  
18          serve for terms ending December 31, 1976, and which shall  
19          serve for terms ending December 31, 1977.

20            "(c) After selection of the original members of the  
21          Alabama Board of Funeral Service and during October of each  
22          year, all embalmers and all funeral directors licensed under  
23          this chapter shall meet in Montgomery, at a time and date in  
24          October and at a place fixed by the board, for the purpose of  
25          nominating three persons to the Governor for each vacancy on  
26          the board. Not more than two nominees shall be members of the  
27          same race. The Governor shall promptly appoint one of the

1 three persons so nominated. If an appointment is not made  
2 before the expiration of the term of a board member, then the  
3 board member may continue to serve until a successor has been  
4 appointed.

5 "(d) The successors to the original members of the  
6 board shall be selected for terms of two years. After the  
7 terms of the original members of the board, four of the  
8 members serving on the board shall be practicing and licensed  
9 embalmers in Alabama for the last 10 consecutive years  
10 immediately preceding their appointment and shall be licensed  
11 embalmers and funeral directors in this state under this  
12 chapter. Three of the members shall have been actively engaged  
13 in funeral directing in Alabama for the last 10 consecutive  
14 years preceding their appointment and shall be licensed  
15 funeral directors of this state, under this chapter, and, at  
16 the time of their appointment to the board, shall be operators  
17 of funeral establishments in this state. If the license of a  
18 member of the board as a funeral director or embalmer should  
19 be revoked or suspended, such member shall automatically, by  
20 reason of such revocation or suspension, become ineligible to  
21 serve as a member of the board, and a new member, properly  
22 qualified, shall be selected in the same manner provided for  
23 appointment to the board. Should a member fail to qualify  
24 after appointment, then he or she shall automatically become  
25 ineligible to serve as a member of the board, and a new  
26 member, properly qualified, shall be appointed and shall serve  
27 the remainder of the term of the member so terminated. Each

1 member of the board shall remain an active practicing funeral  
2 director or embalmer and funeral establishment operator during  
3 his or her tenure of service on the board. Each member may  
4 serve not more than four consecutive two-year terms. In no  
5 event shall more than one member of the board reside in one  
6 district. At each meeting where nominations are made for  
7 members of the board, only one licensed funeral director or  
8 licensed embalmer of each establishment shall have the right  
9 to vote for nominees.

10 "(e) Any board member who is elected to the  
11 International Conference of Funeral Service Examining Board,  
12 upon his or her election, shall begin to serve the state board  
13 in an ex officio capacity only, for the duration of his or her  
14 international conference board term. A member, properly  
15 qualified, shall be selected in the same manner provided for  
16 appointment to the state board and shall serve the remainder  
17 of the term of the member elected to the international  
18 conference board.

19 "(c) Commencing on January 1, 2019, as the terms of  
20 the members serving on the board on the effective date of the  
21 act adding this subsection expire, the membership of the board  
22 shall be reconstituted to consist of seven professional  
23 members and two consumer members.

24 "(1) Each professional member of the board shall be  
25 a citizen of the United States, a resident of Alabama, and  
26 licensed and in good standing with the board as an embalmer or  
27 funeral director at the time of appointment and during the

1                   entire term of office. Professional members of the board shall  
2                   be appointed by the Governor pursuant to subsection (e).

3                   "a. Four of the professional members of the board  
4                   shall hold a current license from the board to practice  
5                   embalming in the state, shall have been actively practicing  
6                   embalming in the state for the last 10 consecutive years  
7                   immediately preceding appointment, and shall be engaged in the  
8                   practice of embalming at the time of appointment to the board.

9                   "b. Three of the professional members of the board  
10                   shall hold a current license from the board to practice  
11                   funeral directing in the state, shall have been actively  
12                   engaged in funeral directing in the state for the last 10  
13                   consecutive years immediately preceding appointment, and shall  
14                   be the operator of a funeral establishment in this state at  
15                   the time of appointment to the board.

16                   "(2) Each consumer member of the board shall  
17                   represent the public in general and shall have been a citizen  
18                   of the United States and a resident of Alabama for the last 10  
19                   consecutive years immediately preceding appointment and during  
20                   the entire term of office. A consumer member of the board may  
21                   not have held, nor currently hold, a license or certification  
22                   issued by the board, be employed at any time by, or  
23                   professionally or financially associated with, the holder of a  
24                   license or certificate issued by the board, or be related  
25                   within the third degree of consanguinity or affinity to the  
26                   holder of a license or certificate issued by the board. One  
27                   consumer member of the board shall be appointed by the

1       Lieutenant Governor and one consumer member shall be appointed  
2       by the Speaker of the House of Representatives pursuant to a  
3       procedure adopted by rule of the board.

4       "(d) Commencing in October of 2018, and each October  
5       thereafter of a year where at least one professional member  
6       term on the board has expired, or is vacant for any reason,  
7       all licensed funeral directors and licensed embalmers shall  
8       meet in Montgomery, at a time and place fixed by the board,  
9       for the purpose of nominating and submitting the names of  
10       three licensed persons for each position on the board to the  
11       Governor. Not more than two nominees shall be members of the  
12       same race. The Governor shall promptly appoint one of the  
13       three persons so nominated to serve as a professional member  
14       of the board.

15       "(e) (1) Professional and consumer members of the  
16       board shall serve staggered terms of four years each to  
17       provide continuity of service on the board. If an appointment  
18       is not made before the expiration of a term, the board member  
19       then serving may continue to serve until a successor has been  
20       appointed. A board member may not serve more than two full  
21       consecutive terms on the board.

22       "(2) A board member who is appointed to fill a  
23       vacancy which occurs before the expiration of the term of the  
24       vacating member shall serve the remaining portion of the term  
25       to which the former member was appointed. If a member is  
26       appointed to fill an unexpired term of less than two years,

1                   the time may not be counted toward the maximum eight years of  
2                   service.

3                   "(3) Not more than one professional member of the  
4                   board may reside in the same district as created by Section  
5                   34-13-21.

6                   "(4) At each meeting where nominations are made for  
7                   the professional members of the board, only one licensed  
8                   funeral director or licensed embalmer employed by the same  
9                   funeral establishment may vote.

10                  "(f) (1) In accordance with applicable law, in  
11                  addition to a board member resigning from the board in  
12                  writing, a board member may be removed from the board for any  
13                  of the following grounds:

14                  "a. The refusal or inability to perform board duties  
15                  in an efficient, responsible, or professional manner.

16                  "b. The misuse of his or her position on the board  
17                  to obtain financial gain or seek personal advantage for  
18                  himself, herself, or another person.

19                  "c. A final adjudication or determination of guilt  
20                  by any lawful authority of the board member or sanction of the  
21                  board member for the violation of any law the board determines  
22                  is substantially related to any practice governed by this  
23                  chapter.

24                  "d. The revocation or suspension of the license of a  
25                  professional member of the board.

26                  "(2) Any board member who fails to qualify after  
27                  appointment shall automatically become ineligible to serve as

1                   a member of the board and a new member, properly qualified,  
2                   shall be appointed in the same manner as the original  
3                   appointment and shall serve the remainder of the term of the  
4                   vacating board member.

5                   "(3) If a consumer board member fails to attend two  
6                   or more meetings within a year, without a valid excuse as  
7                   determined by the board, he or she shall be removed from the  
8                   board. A new consumer board member shall be appointed in the  
9                   same manner as the original appointment and shall serve the  
10                   remainder of the term.

11                   "§34-13-21.

12                   "There are ~~hereby~~ created, for the purpose of this  
13                   chapter, seven geographical districts which shall be identical  
14                   with the seven congressional districts as fixed and  
15                   established by Section 17-20-1, as may be amended. It is the  
16                   purpose and intention of this section to provide that one  
17                   professional member of the ~~Alabama Board of Funeral Service~~  
18                   board shall be selected from each district, ~~which shall be~~  
19                   ~~geographically identical with the congressional districts,~~ and  
20                   that three nominees to the Governor for appointment to the  
21                   board shall be made from each district. The two consumer  
22                   members of the board may not reside in the same congressional  
23                   district.

24                   "§34-13-23.

25                   "(a) (1) The board appointed under this chapter and  
26                   each successor thereto is authorized to select from its own  
27                   membership a chair and to adopt and promulgate such rules and

1 regulations for the transaction of its business and for the  
2 betterment and promotion of the standards of service and  
3 practice to be followed in the funeral service profession in  
4 the State of Alabama as ~~it~~ the board may deem expedient and  
5 consistent with the laws of this state and for the public  
6 good.

7                 "(2) The chair shall preside at all meetings of the  
8 board unless otherwise ordered, and ~~he~~ or she shall exercise  
9 and perform all duties and functions incident to the office of  
10 chair.

11                 "(3) The board may select also from its own  
12 membership a vice chair, a secretary, and a treasurer. No two  
13 offices shall be held by the same person. The chair and vice  
14 chair may not be of the same race.

15                 "(b) The treasurer shall give bond to the State of  
16 Alabama in the sum of ten thousand dollars (\$10,000), and any  
17 premium payable for the bond shall be paid from the funds of  
18 the board. The bond shall be deposited with the Treasurer of  
19 the State of Alabama.

20                 "(c) Board members shall be reimbursed for their  
21 necessary traveling expenses and the necessary expenses  
22 incident to their attendance upon the business of the board,  
23 and, in addition thereto, they shall receive the sum of fifty  
24 dollars (\$50) per diem for every day not to exceed 20 days per  
25 year actually spent by the member upon the business of the  
26 board. The board may employ an executive ~~secretary~~ director  
27 and associate executive ~~secretary~~ director who shall each

1 receive and be paid an annual salary to be fixed by the board,  
2 but not to exceed the salary level established and paid to  
3 cabinet officers in the state government. The salary shall be  
4 paid on a ~~monthly~~ semimonthly basis. In addition, the  
5 executive ~~secretary~~ director and associate executive ~~secretary~~  
6 director shall receive his or her necessary traveling and  
7 other incidental expenses as are incurred in the performance  
8 of duties, and all expenses, per diem, and compensation shall  
9 be paid out of the receipts of the board. At no time shall the  
10 operation of the board be an expense to the state, and at no  
11 time shall expenses of the board exceed the receipts of the  
12 board.

13                 "(d) The executive ~~secretary~~ director of the board  
14 shall have complete supervision and be held responsible for  
15 the direction of the office of the board, shall have  
16 supervision over field inspection and enforcement of this  
17 chapter, and shall be responsible and answerable to the board.  
18 The associate executive ~~secretary~~ director shall assist the  
19 executive ~~secretary~~ director and perform such other duties as  
20 may be assigned to him or her by the board. The executive  
21 ~~secretary~~ director and associate executive ~~secretary~~ director  
22 shall not be of the same race.

23                 "(e) The executive ~~secretary~~ director shall keep a  
24 record in which shall be registered the name and business  
25 address of every person to whom licenses have been granted in  
26 accordance with this chapter, the number and date of the  
27 license and the date of each renewal. Upon request to do so,

1 the executive ~~secretary~~ director shall supply each person  
2 licensed for the practice of embalming and funeral directing  
3 with a list of all persons and establishments holding a  
4 license under this chapter, then in force, giving the names of  
5 the persons, their business addresses, and the numbers of  
6 their licenses.

7 "(f) It shall be the duty of the executive ~~secretary~~  
8 director to prepare under the direction of the board and cause  
9 to be printed all forms required by this chapter to be  
10 prescribed by the board. All notices required to be mailed by  
11 this chapter shall be directed to the last known post office  
12 address of the party to whom the notice is sent.

13 "(g) The executive ~~secretary~~ director shall serve at  
14 the pleasure of the board and shall perform duties as may be  
15 necessary for the proper functioning of the board as the board  
16 may determine or as may be prescribed in this chapter. During  
17 the employment of the executive ~~secretary~~ director he or she  
18 may not be employed by any funeral establishment.

19 "(h) All fees and fines received under this chapter  
20 shall be paid into a special fund in the State Treasury to be  
21 known as the Alabama State Funeral Directors and Embalmers  
22 Fund, which is hereby created, for the necessary and proper  
23 expenses of the board, and for a reasonable reserve for future  
24 use by the board. All moneys in the fund are hereby  
25 appropriated, as a continuing appropriation, to the ~~Alabama~~  
26 ~~Board of Funeral Service~~ board to be used for carrying out  
27 this chapter.

1                             "(i) Each member of the board, the executive  
2 ~~secretary~~ director, the associate executive ~~secretary~~  
3 director, designated employees, and independent contractors of  
4 the board appropriately identified are authorized at any given  
5 time on complaint or for inspection purposes to enter the  
6 office, premises, establishment, or place of business of any  
7 funeral service licensee in the State of Alabama or any  
8 office, premises, establishment, or place where the practice  
9 of funeral service is carried on, or where the practice is  
10 advertised as being carried on, for the purpose of inspecting  
11 the office, premises, records, or establishment and for the  
12 purpose of inspecting the license and registration of any  
13 funeral service licensee and apprentice trainee operating  
14 therein.

15                             "(j) All members of the board or designated  
16 employees of the board ~~are hereby authorized to~~ may serve and  
17 execute any process issued by any court under this chapter and  
18 to serve and execute any papers or process issued by the board  
19 or any officer or member thereof under ~~authority of~~ this  
20 chapter.

21                             "(k) The board may employ clerical assistants and  
22 employees or other help as ~~may be~~ necessary to carry out this  
23 chapter, and the terms and conditions of employment shall be  
24 determined by the board. The board may establish and equip an  
25 office from which this chapter may be carried out.

26                             "§34-13-25.

"All hearings provided for by this chapter shall be open to the public, and a report and record of proceedings of each hearing shall be made at the expense of the board. A copy of such report and record shall be furnished to any interested party, upon request and tender to the executive secretary of the board of the reasonable cost of preparation thereof conducted pursuant to the Alabama Administrative Procedure Act.

"§34-13-26.

"(a) The board ~~has the power to~~ shall adopt and enforce for the protection of the public health, safety, and welfare reasonable rules ~~and regulations~~ pursuant to the Alabama Administrative Procedure Act.

"(b) The rules and regulations of the board shall not become effective until they have been published and discussed at a public hearing and have been filed in the office of the Secretary of State; and, when so filed, such rules and regulations shall be in full force and have the effect of law. The board shall mail notice of such hearing to each licensee under this chapter 15 days before the date of such hearing.

"(c) All rules and regulations adopted by the board shall be referenced to the section or sections of this chapter which set forth the legislative standard which it interprets or to which it applies. Every rule and regulation shall be in writing, promulgated by an order, state its effective date, be indexed in a permanent book which shall be a permanent record,

1 and a true copy shall be filed in the office of the Secretary  
2 of State of Alabama. A copy of every order promulgating a  
3 rule, regulation, or other order containing a requirement of  
4 general application shall be provided to each licensee in  
5 electronic format and available on the website of the board.  
6 The failure of a licensee to receive a copy of the rule,  
7 regulation, or order shall not exempt or excuse him or her  
8 from the duty of compliance with the valid rules, regulations,  
9 or orders lawfully issued.

10                   "(d) (b) The board shall have power to may hold  
11 hearings, conduct investigations, subpoena witnesses, subpoena  
12 documents, administer oaths, and take testimony in order to  
13 carry out this chapter.

14                   "(e) A court of competent jurisdiction, upon  
15 application of the board, may restrain violations or refusals  
16 to comply with this chapter or the regulations of the board.

17                   "(f) Any person, including a member of the board,  
18 may initiate a complaint against a licensee of the board by  
19 filing with the board a written complaint on a form prescribed  
20 by the board.

21                   "(1) Upon receipt of a properly verified complaint,  
22 the board shall send a copy of the complaint to the affected  
23 licensee by certified mail to the address of such licensee  
24 appearing on record with the board. The licensee shall answer  
25 the complaint in writing within 20 days after receipt of the  
26 complaint. The licensee shall mail a copy of his or her  
27 response to the board and the complainant. Upon receipt of the

1 response of the licensee or lapse of 20 days, the board may  
2 investigate a complaint that appears to show the existence of  
3 any of the causes or grounds for disciplinary action pursuant  
4 to this chapter. Upon finding reasonable cause to believe that  
5 the charges are not frivolous, unfounded, or filed in bad  
6 faith, the board may cause a hearing to be held, at a time and  
7 place fixed by the board, regarding the charges. If a hearing  
8 is held, the board shall order the licensee to appear and show  
9 cause why he or she should not be disciplined for a violation  
10 of this chapter.

11 "(2) The board shall give the complainant and the  
12 affected licensee 20 days' notice of any hearing upon a  
13 complaint. Such notice shall be by United States certified  
14 mail.

15 "(3) Any party appearing before the board may be  
16 accompanied by counsel.

17 "(4) Before commencing a hearing, the chair or a  
18 designee of the board shall determine if all parties are  
19 present and ready to proceed. If the complainant does not  
20 attend a hearing and does not show good cause for his or her  
21 absence, the complaint shall be summarily dismissed and all  
22 fees and expenses relating to the convening of the hearing  
23 shall be charged to the complainant. If an affected licensee  
24 does not appear for a hearing and does not show good cause for  
25 his or her absence, the licensee shall be presumed to have  
26 waived his or her right to appear before the board and be  
27 heard.

1                         "(5) Upon a determination by the chair or designee  
2 that all parties are ready to proceed, the hearing shall be  
3 called to order. The complainant and the licensee may offer  
4 opening statements and the board may order the sequestration  
5 of nonparty witnesses.

6                         "(6) After opening statements, the complainant shall  
7 present his or her case and the licensee, any counsel, and any  
8 member or designee of the board may ask questions of  
9 complainant witnesses.

10                         "(7) After the complainant has completed presenting  
11 his or her case, the licensee shall present his or her case  
12 and the complainant, any counsel, and any member or designee  
13 of the board may ask questions of licensee witnesses.

14                         "(8) After both sides have completed their  
15 presentations, closing statements may be given by the  
16 complainant and the licensee.

17                         "(9) At the conclusion of the hearing, the board may  
18 render an immediate decision or take the case under advisement  
19 for further deliberation. A decision of the board shall be  
20 rendered within 90 days after the hearing and a copy of that  
21 decision shall be mailed to the last known business or  
22 residence address of the complainant and the licensee.

23                         "(g) The board may file a formal complaint against a  
24 licensee and may temporarily suspend a license simultaneously  
25 with the institution of proceedings under this section,  
26 without a hearing, if the board finds that the evidence  
27 supporting the determination is clear, competent, and

1       unequivocal and that the continuation of the licensee to  
2       practice would constitute a danger to public health or safety.

3               "§34-13-29.

4               "All necessary expenses incurred in giving  
5        examinations to applicants and incidental to the renewal of  
6        licenses and all necessary expenses incurred in education and  
7        enforcing ~~the provisions of~~ this chapter shall be audited by  
8        the ~~Examiner~~ the Department of Examiners of Public Accounts  
9        and paid from the funds provided for in this chapter in the  
10      same manner as other claims against the state are paid after  
11      due approval thereof by the ~~chairman~~ chair and executive  
12      secretary director of the board.

13               "§34-13-31.

14               "(a) Whenever, by decision, final order, or other  
15      final determination upon any public hearing provided for by  
16      this chapter, a party to such hearing shall feel aggrieved, an  
17      appeal may be taken to the ~~circuit court for the county within~~  
18      which such party resides or, if he or she is not a resident of  
19      Alabama, then to the ~~circuit court for the county within which~~  
20      the hearing was held Circuit Court of Montgomery County,  
21      Alabama. However, if there is more than one appellant, the  
22      circuit court having jurisdiction to hear the appeal of the  
23      first appellant filing a notice of appeal shall have  
24      jurisdiction to hear all appeals arising from the same  
25      hearing, irrespective of the place of residence of the  
26      appellants.

"(b) On taking and perfecting an appeal to the circuit court having jurisdiction thereof Circuit Court of Montgomery County, Alabama, the court shall proceed as in other cases.

"(c) All appeals shall be taken within 30 days from the date of the order entered of the board which is the basis of the appeal and shall be granted as a matter of right and be deemed perfected by filing with the board a bond for security of costs of the appeal. Upon filing of a verified petition and hearing thereon, the court may, in its discretion, may stay the order appealed from pending final judicial review. No new or additional evidence may be introduced in the circuit court except as to fraud or misconduct of some person engaged in the administration of this chapter and affecting the order, rule, or ruling appealed from. The court shall otherwise hear the case upon the record as certified to the court by the executive ~~secretary~~ director of the board and shall set aside the order, rule, or action appealed from if the court finds that the board erred to the prejudice of the appellant's substantial rights in its application of the law; or, the order, decision, or award was procured by fraud or was based upon a finding of facts contrary to the substantial weight of the evidence, or that the order was arbitrary, capricious, or inconsistent with respect to any of the material issues involved; or that the board failed in its order to find sufficient facts as to each material issue involved to enable the court to determine the basis for the conclusion of the

1 board. The court, instead of setting aside the order, shall  
2 remand the case to the board for further proceedings in  
3 conformity with the direction of the court. The court ~~may~~, in  
4 advance of judgment and upon a sufficient showing, may remand  
5 the cause to the board for the purpose of taking additional  
6 testimony or other proceedings.

7                 "(d) An appeal may be taken from the judgment decree  
8 or any appealable order of the circuit court to the Supreme  
9 Court of this state. Appeals to the Supreme Court shall be  
10 taken, perfected, heard, and determined in the manner  
11 prescribed by law and the Alabama Rules of Appellate Procedure  
12 for taking, perfecting, hearing, and determining appeals to  
13 the Supreme Court.

14                 "§34-13-51.

15                 "(a) The board ~~may, but shall not be required to,~~  
16 recognize and issue, without examination and upon payment of a  
17 fee not in excess of five hundred dollars (\$500) for each  
18 license, a reciprocal license for the practice of funeral  
19 directing or embalming to any person licensed as a funeral  
20 director or embalmer by any state, if the board makes an  
21 individual determination that the qualifications of the  
22 applicant meet or exceed the minimum qualifications required  
23 for funeral directors or embalmers in this state and that a  
24 written examination of such applicant would be superfluous.

25                 "(b) Applications shall be made on forms prescribed  
26 and furnished by the board. An applicant holding a funeral  
27 director or embalmer license from another state, and applying

1 for a funeral director or embalmer license in Alabama shall be  
2 considered for licensing by reciprocity.

3                             "(c) Commencing on October 1, 2017, in addition to  
4 the requirements of subsections (a) and (b), an applicant for  
5 a funeral director or embalmer license shall submit to the  
6 board a form, sworn to by the applicant, that contains the  
7 name, date of birth, and Social Security number of the  
8 applicant, and two complete sets of fingerprints, for  
9 completion of a criminal history background check. The board  
10 shall submit the fingerprints to the Alabama State Law  
11 Enforcement Agency for a state criminal history record check.  
12 The fingerprints shall be forwarded by the agency to the  
13 Federal Bureau of Investigation for a national criminal  
14 history record check. Costs associated with conducting a  
15 criminal history background check shall be paid by the  
16 applicant. The board shall keep information received pursuant  
17 to this subsection confidential, except that information  
18 received and relied upon in denying the issuance of a funeral  
19 director or embalmer license may be disclosed if necessary to  
20 support the denial.

21                             "(d)+(e) The board, at the time of the application,  
22 shall make a reasonable determination that the applicant is a  
23 legal resident of the United States or legally present in this  
24 state. The board reserves the right to require applicants for  
25 reciprocity to submit to a personal interview or a written  
26 examination relating to the law as it pertains to the  
27 regulation of the funeral service profession in Alabama.

1                         "(e)~~(d)~~ The board shall issue a special work permit  
2 to a qualified funeral director or embalmer when the board  
3 determines that the applicant satisfies all requirements for  
4 reciprocity and a fee, not exceeding one hundred dollars  
5 (\$100), is received by the board. A special work permit shall  
6 expire on the date of the next regular board meeting occurring  
7 after issuance.

8                         "§34-13-52.

9                         "(a) Licenses under this chapter shall be granted to  
10 individuals upon the qualification and successful examination  
11 of the individual applicant and shall specify the name to whom  
12 it is issued. A license, registration, or certificate granted  
13 under this chapter shall be on public display.

14                         "(b) A funeral establishment license issued under  
15 this chapter shall include the name of the funeral  
16 establishment, the name of the managing funeral director, the  
17 name of the managing embalmer, and the certificate of  
18 authority license number, if applicable. The license shall be  
19 on public display.

20                         "(c) Every license issued under this chapter shall  
21 be signed by the chair and executive ~~secretary~~ director and  
22 shall be displayed in the place of business or employment of  
23 the licensee.

24                         "(d) Any person engaged in the business, profession,  
25 or practice of funeral directing shall do each of the  
26 following:

1                         "(1) Possess on his or her person, or be able to  
2 promptly produce, a legible and current Alabama funeral  
3 director's wallet license ~~certificate~~ when performing the  
4 duties of a funeral director.

5                         "(2) Upon the request of a board member, the  
6 executive ~~secretary~~ director, the associate executive  
7 ~~secretary~~ director, or a designated and appropriately  
8 identified employee of the board, promptly produce his or her  
9 legible and current Alabama funeral director wallet license  
10 certificate.

11                         "(e) Any person engaged in the business, profession,  
12 or practice of embalming shall do each of the following:

13                         "(1) Possess on his or her person, or be able to  
14 promptly produce, a legible and current Alabama embalmer's  
15 wallet license ~~certificate~~ when performing the duties of an  
16 embalmer.

17                         "(2) Upon the request of a board member, the  
18 executive ~~secretary~~ director, the associate executive  
19 ~~secretary~~ director, or a designated and appropriately  
20 identified employee of the board, promptly produce his or her  
21 legible and current Alabama embalmer wallet license  
22 certificate.

23                         "(f) Any person engaged in the business, profession,  
24 or practice of cremation shall do each of the following:

25                         "(1) Possess on his or her person, or be able to  
26 promptly produce, a legible and current Alabama cremationist's  
27 wallet license when performing the duties of a cremationist.

1                   "(2) Upon the request of a board member, the  
2                   executive director, the associate executive director, or a  
3                   designated and appropriately identified employee of the board,  
4                   promptly produce his or her legible and current Alabama  
5                   cremationist wallet license certificate.

6                   "§34-13-53.

7                   "(a) (1) Before October 1, 2018, every Every licensed  
8                   funeral director, every licensed embalmer, and every licensed  
9                   operator shall pay annually a fee for renewal of his or her  
10                  license. The renewal fees shall be set by the board at a rate  
11                  not to exceed one hundred fifty dollars (\$150) for licensed  
12                  embalmers and funeral directors and five hundred dollars  
13                  (\$500) for licensed operators.

14                  "(2) Commencing on October 1, 2018, every license or  
15                  registration issued by the board under this chapter shall be  
16                  renewed biennially upon submission by the licensee or  
17                  registrant of a renewal application and a renewal fee  
18                  established by board rule, not exceeding five hundred dollars  
19                  (\$500), for each licensed cremationist, embalmer, funeral  
20                  director, and funeral establishment.

21                  "(b) All licenses granted under this chapter shall  
22                  expire on October 1, following their issuance or renewal, and  
23                  shall become invalid unless renewed as provided in this  
24                  section and other requirements of the board are met. In  
25                  addition to payment of a renewal fee, each licensee shall  
26                  satisfy continuing education requirements prescribed by rule

1 of the board pursuant to subsection (c). There shall be no  
2 proration of licenses.

3 "(c) (1) Commencing in 2014, and for each licensing  
4 period thereafter, the board may require persons seeking  
5 renewal of ~~an a~~ cremationist, embalmer, or funeral director  
6 license under this chapter to complete board approved  
7 continuing education of not less than eight hours biennially.  
8 The board may approve continuing education providers and  
9 courses offered by institutions of higher learning, specialty  
10 societies, associations, or professional organizations or by  
11 other organizations the board deems appropriate.

12 "(2) Any person who holds an inactive license or who  
13 is over the age of 65, with at least 10 years of experience in  
14 the funeral service industry, is exempt from the continuing  
15 education requirement.

16 "(3) An embalmer who is also a licensed funeral  
17 director and who completes the continuing education  
18 requirements for funeral directors is not required to complete  
19 additional continuing education requirements.

20 "(4) Continuing education providers shall pay a  
21 biennial administrative fee established by board rule, not  
22 exceeding two hundred fifty dollars (\$250).

23 "(5)-(4) The board may promulgate rules to implement  
24 and ensure compliance with this section.

25 "(d) The board shall publish on or before August 1  
26 of ~~each~~ the expiration year, in printed form, electronic  
27 image, in an online publication, or on the website of the

1 board that is accessible to each licensed funeral director,  
2 licensed embalmer, licensed cremationist, and licensed  
3 ~~operator establishment~~, notice that his or her renewal fee is  
4 due and payable and that, if such fee is not paid by ~~October 1~~  
5 September 30 of that year, the license shall ~~lapse expire~~.  
6 Information regarding license renewal dates and fees shall be  
7 available in electronic format on the website of the board.

8 "(e) At the time, or before, a licensee changes  
9 place of employment, residence address, or makes any other  
10 change in status which is of record at the board office, the  
11 licensee shall report such change of status, by a method  
12 prescribed by the board, to the executive ~~secretary director~~.

13 "§34-13-54.

14 "No license to a cremationist, an embalmer, a  
15 funeral director, or a funeral establishment granted under or  
16 regulated by this chapter shall be transferable or assignable.

17 "§34-13-55.

18 "(a) When a licensee, for any reason, has allowed  
19 ~~his or her a~~ license to ~~lapse expire~~, the board may reinstate  
20 the license if application for reinstatement is made within a  
21 period of ~~six months~~ 30 days from the ~~lapse date of expiration~~  
22 and is accompanied by payment of all penalties and ~~lapsed~~  
23 fees, from the time of the ~~lapse expiration~~ to date of  
24 reinstatement. The penalties to be paid to the board shall not  
25 exceed one hundred dollars (\$100) to reinstate licenses which  
26 have ~~lapsed~~ expired.

"(b) After the ~~six-month~~ 30-day period has elapsed, such a license may be reinstated only by complying with the provisions of this chapter relating to the issuance of an original license in addition to payment of all ~~lapsed~~ fees and penalties.

"§34-13-56.

"(a) The board may refuse to license any person or establishment for violation of this chapter. If the board refuses to issue, grant, or renew a license based on a violation of this chapter, including, but not limited to, violations listed in subsection (c), the licensee or prospective licensee may request a public hearing before the board to appeal the action of the board. The request for a public hearing shall be submitted to the board in writing within 14 calendar days after the date of the refusal. Upon request, the board shall provide the licensee or prospective licensee with 20 days' notice of the public hearing by United States certified mail. The public hearing shall be conducted pursuant to Section 34-13-26.

"(b) A public hearing conducted pursuant to Section 34-13-26 shall be provided by the board to any licensee for whom the board is considering the probation, suspension, or revocation of a license, excluding a temporary suspension issued by the board pursuant to subsection (g) of Section 34-13-26.

"(c) (a) The board may ~~refuse to grant, refuse to~~  
~~renew, or~~ suspend, or revoke, or place on probation a license

1 after proper hearing and notice to if the licensee, upon the  
2 licensee's being is found guilty of any of the following:

3                 "(1) Conviction of a crime involving moral turpitude  
4 including, but not limited to, any crime where the individual  
5 has to register as a sex offender in any jurisdiction.

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

8                 "a. Misrepresentation or fraud in the conduct of the  
9 business or the profession of a funeral director or embalmer.

10                 "b. False or misleading advertising as a funeral  
11 director or embalmer or knowingly engaging in any advertising  
12 which is misleading or inaccurate in any material particular.

13                 "c. Solicitation of dead human bodies by the  
14 licensee, his or her agents, assistants, or employees, from  
15 medical professionals or clergy, whether the solicitation  
16 occurs after death or while death is impending.

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

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

6 "h. Gross immorality.

7 "i. Aiding or abetting an unlicensed person,  
8 establishment, or entity in the to practice of funeral  
9 directing or, embalming, cremation, or conducting business as  
10 a funeral establishment or crematory.

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

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

19 "l. Any violation of this chapter or order or rule  
20 of the board.

21 "m. Any violation of state law or municipal or  
22 county ordinance or regulation affecting the handling,  
23 custody, care, or transportation of dead human bodies.

24 "n. Fraud or misrepresentation in obtaining a  
25 license.

26 "o. Refusing to promptly surrender the custody of a  
27 dead human body, upon the express order and payment for

1 services rendered of the person lawfully entitled to the  
2 custody thereof.

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

6 "q. Being intoxicated or under the influence of  
7 illegal drugs while on duty at a funeral establishment or  
8 while performing any duty or responsibility for the funeral  
9 establishment.

10 "r. Willfully retaining or willfully failing to  
11 account for any property of a decedent.

12 "s. Knowingly and willfully signing ~~a certificate or~~  
13 ~~other~~ any documentation as having embalmed or prepared a body  
14 for burial when, in fact, the services were not performed by  
15 the licensee.

16 "t. Failure to give full cooperation to the board or  
17 its designees, agents, or other representatives in the  
18 performance of official duties of the board.

19 "u. Not furnishing any relevant papers or documents  
20 requested by or for the board.

21 "v. Not furnishing, in writing, an adequate  
22 explanation relating to a matter contained in a complaint  
23 filed with the board against the licensee.

24 "w. Not responding to a subpoena issued by the  
25 board, without good cause shown, whether or not the licensee  
26 is the party charged in any proceeding before the board.

"x. Not providing reasonable access to the board or an authorized agent or representative of the board for the performance of reviews or inspections at facilities or places utilized by the licensee in the practice of funeral service or funeral directing or in performing any other activity regulated by the board.

"y. Failing to provide information within a specific time as required by the board or an authorized agent or representative of the board.

"z. Failing to cooperate with the board or an authorized agent or representative of the board in the investigation of any alleged misconduct or interfering with a board investigation through the willful misrepresentation of facts.

"aa. Deceiving or attempting to deceive the board regarding any matter under investigation, including the altering or destroying of any records.

"bb. Failure, without good cause, to cooperate with any request from the board to appear before the board.

"cc. Violating any statute, ordinance, or rule of the state or any board, agency, or political subdivision of the state affecting the registration of deaths, the handling, custody, care, or transportation of dead human bodies, or the sale of funeral services or funeral merchandise.

"dd. Demonstrating bad faith, incompetence, or untrustworthiness or dishonest, fraudulent, or improper dealing or any other violation of this chapter or any rule

1 promulgated by the board or promulgated by the Federal Trade  
2 Commission relative to the practice of funeral service or  
3 funeral directing.

4 "ee. Any other reason as determined by the board  
5 that would render an individual unsuitable for licensure or  
6 certification by the board.

7 "ff. A funeral home or funeral director accepting  
8 funds for a preneed funeral contract or other prepayment of  
9 funeral expenses without a certificate of authority to sell  
10 preneed funeral contracts or, if registered to sell preneed  
11 funeral contracts, failing to deposit the funds with a  
12 qualified trustee or to timely remit premium payments from the  
13 consumer to the insurer.

14 "gg. Using any funeral merchandise previously sold  
15 without prior written permission of the person selecting or  
16 paying for the use of the merchandise. A previously used  
17 casket shell may be used for the viewing of remains if a new  
18 interior or interior insert is installed before each usage of  
19 the casket shell.

20 " (d)-(b) In addition to the disciplinary actions  
21 authorized in subsection ~~(a)~~ (c), the board may levy and  
22 collect administrative fines for violations of this chapter or  
23 the rules or regulations of the board in an amount not less  
24 than five hundred dollars (\$500) nor more than two thousand  
25 five hundred dollars (\$2,500) for each violation, unless  
26 otherwise provided for in this chapter or by rule of the  
27 board.

1                   "§34-13-57.

2                   " Fifteen days before an examination, the executive  
3 ~~secretary of the board~~ director shall provide to all  
4 applicants and all funeral establishments in the state, in  
5 electronic format and on the website of the board, a notice  
6 listing the names of all persons admitted by the board to take  
7 the examination and setting out the time and place of the  
8 examination.

9                   "§34-13-70.

10                  "(a) No person shall engage in, or attempt to engage  
11 in, the practice or profession or business of a funeral  
12 director unless licensed to do so by the ~~Alabama Board of~~  
13 ~~Funeral Service~~ board. The board ~~hereby is granted authority~~  
14 ~~to~~ may issue ~~license~~ licenses to funeral directors.

15                  "(b) Any person desiring to engage in the business,  
16 profession, or practice of funeral director shall make  
17 application to the board and shall accompany his or her  
18 application by a fee to be established by the board, not to  
19 exceed ~~one~~ five hundred ~~fifty~~ dollars (\$150) (\$500).

20                  "(c) Commencing on October 1, 2017, in addition to  
21 the requirements of subsection (b), an applicant for a funeral  
22 director license shall submit to the board a form, sworn to by  
23 the applicant, that contains the name, date of birth, and  
24 Social Security number of the applicant, and two complete sets  
25 of fingerprints, for completion of a criminal history  
26 background check. The board shall submit the fingerprints to  
27 the Alabama State Law Enforcement Agency for a state criminal

history record check. The fingerprints shall be forwarded by the agency to the Federal Bureau of Investigation for a national criminal history record check. Costs associated with conducting a criminal history background check shall be paid by the applicant. The board shall keep information received pursuant to this subsection confidential, except that information received and relied upon in denying the issuance of a funeral director license may be disclosed if necessary to support the denial.

"§34-13-71.

"An application for a license as a funeral director shall be in writing and verified on a form provided by and addressed to the board and filed with the ~~secretary of the board executive director~~. The application ~~must~~ shall specify the address of the applicant and ~~must~~ shall be accompanied by the affidavits of at least two licensed embalmers or funeral directors to the effect that the applicant is of good character and has qualified himself or herself to become licensed as prescribed by this chapter. The board may require an applicant for license as a funeral director to submit to a personal interview.

"§34-13-74.

"(a) When a licensed funeral director dies leaving a licensed funeral business with no licensed funeral director, the surviving spouse, or a surviving child of legal age, shall have the right to may make application for examination as a funeral director. The application shall be in writing, on a

1 form prescribed by the board, and shall state the facts  
2 pertaining to the case. The board may certify the applicant  
3 for the examination prescribed for funeral directors, in which  
4 event the requirements with respect to prior experience and  
5 apprenticeship shall be waived.

6 "(b) When a licensed funeral director dies leaving a  
7 licensed funeral business with no licensed funeral director,  
8 the board may issue a special operating permit to the operator  
9 of ~~such~~ the licensed funeral business for a period of up to 12  
10 months, with the board having the right to extend the permit  
11 an additional reasonable time to afford ~~such~~ the operator the  
12 opportunity of obtaining a licensed funeral director for ~~such~~  
13 the business. The operator shall ~~be required to~~ pay a fee for  
14 the issuance of the special operating permit in an amount not  
15 exceeding one hundred dollars (\$100).

16 "(c) All human remains embalmed for a funeral  
17 establishment operating under a special operating permit and  
18 all funeral directing operations carried on under the permit  
19 shall be in conformance with all the requirements of this  
20 chapter which are not in conflict with this section.

21 "§34-13-91.

22 "(a) The applicant for an embalmer's license shall  
23 make application to the board. The application ~~must~~ shall be  
24 in writing and verified on a form provided by and addressed to  
25 the board and ~~must~~ shall be accompanied by the prescribed fee  
26 and by affidavits of at least two licensed embalmers to the  
27 effect that the applicant is of good moral character and has

1 met all qualifications required for examination for license as  
2 prescribed by this chapter. The board may require an applicant  
3 for an embalmer's license to submit to a personal interview.

4 "(b) Commencing on October 1, 2017, in addition to  
5 the requirements of subsection (a), an applicant for an  
6 embalmer license shall submit to the board a form, sworn to by  
7 the applicant, that contains the name, date of birth, and  
8 Social Security number of the applicant, and two complete sets  
9 of fingerprints, for completion of a criminal history  
10 background check. The board shall submit the fingerprints to  
11 the Alabama State Law Enforcement Agency for a state criminal  
12 history record check. The fingerprints shall be forwarded by  
13 the agency to the Federal Bureau of Investigation for a  
14 national criminal history record check. Costs associated with  
15 conducting a criminal history background check shall be paid  
16 by the applicant. The board shall keep information received  
17 pursuant to this subsection confidential, except that  
18 information received and relied upon in denying the issuance  
19 of an embalmer license may be disclosed if necessary to  
20 support the denial.

21 "§34-13-110.

22 "(a) Any person, corporation, partnership, society  
23 or group owning or operating a funeral establishment coming  
24 within the provisions of this chapter may do so only through  
25 the services of a licensed funeral director or embalmer. No  
26 person not licensed as a funeral director or embalmer shall be  
27 permitted to perform the functions of a funeral director or

1       embalmer as herein defined or hold himself or herself out to  
2       the public as such by reason of his or her ownership in a  
3       funeral establishment or by reason of his or her ownership of  
4       stock owned in or office held in a corporation to own or  
5       operate a funeral establishment. After September 10, 1975, no  
6       firm or corporation authorized to own and operate a funeral  
7       establishment may change or amend its name or charter so as to  
8       include in its firm or corporate name the name of any person  
9       who is not individually licensed as a funeral director in this  
10       state; provided, that ~~the provisions of~~ this sentence shall  
11       not be applicable to the name of any firm or corporation  
12       owning or operating a funeral establishment on September 10,  
13       1975, so long as such firm or corporation remains under the  
14       same ownership.

15       "(b) If the business card of a funeral establishment  
16       contains the name of an individual, the individual shall be  
17       licensed by the board in accordance with this chapter.

18       "(c) (1) Any funeral establishment advertising  
19       cremation or cremation services that does not own a crematory  
20       shall include the following disclaimer in a clear and  
21       conspicuous manner on all advertisements and printed material:  
22       "This establishment does not own a crematory."

23       "(2) For the purposes of this subsection, an  
24       advertisement shall include, but is not limited to, a notice  
25       or announcement in a public medium, including the Internet,  
26       promoting the funeral establishment and any printed material  
27       containing the name of the funeral establishment.

1                   "§34-13-111.

2                   "(a) No funeral establishment or branch thereof for  
3                   the preparation, disposition, and care of dead human bodies  
4                   shall be opened or maintained unless ~~duly~~ licensed by the  
5                   board. No funeral establishment or branch shall be moved  
6                   without obtaining a new funeral establishment license from the  
7                   board.

8                   "(b) Every funeral service, memorial service, or  
9                   interment committal service, or part thereof, that is  
10                  conducted in Alabama, for hire or for profit, shall be in the  
11                  actual charge and shall be under the direct supervision of a  
12                  funeral director who is licensed by the board, unless  
13                  otherwise provided for in this chapter or by rule of the  
14                  board.

15                  "(c) The board shall set a fee, not exceeding one  
16                  hundred fifty dollars (\$150), that shall be in addition to the  
17                  license fee for the first inspection of any funeral  
18                  establishment seeking a license under Section 34-13-72 made  
19                  for the purpose of determining whether ~~such~~ the funeral  
20                  establishment has fulfilled the requirements for licensure  
21                  pursuant to this chapter. The board shall set a fee, not  
22                  exceeding one hundred fifty dollars (\$150), for each  
23                  reinspection necessitated by failure of any funeral  
24                  establishment to pass ~~such~~ the first inspection. The board, or  
25                  a representative of the board, shall annually conduct a  
26                  minimum of at least one unannounced inspection of each funeral  
27                  establishments establishment and branches branch, with an

inspection fee of not more than one hundred dollars (\$100). The inspection fee shall be submitted to the board within 45 days after the inspection. Any funeral establishment that does not submit the inspection fee within 45 days shall be charged a late penalty fee, as established by the board. A funeral establishment, or branch thereof, that is used for the preparation, disposition, and care of dead human bodies shall meet and conform to this chapter and to such other lawful standards and requirements as may be determined by rule of the board in furtherance of this chapter; and, for failure to do so, the board may revoke such the funeral establishment license in accordance with the procedure set forth in this chapter.

"(d) Applications for transfer of a license to another location in the same county shall be made upon a form furnished by the board and shall be accompanied by a fee of not more than seventy-five dollars (\$75).

"(e) Any change in ownership of a funeral establishment shall be immediately reported to the board on a form provided by the board. The new owner of the establishment shall comply with Section 34-13-112 and Section 34-13-113 and shall provide to the board a signed copy of the asset purchase agreement with dollar amounts redacted. The fee for a change of ownership application is two hundred fifty dollars (\$250).

"§34-13-112.

"(a) All applications for a license to operate a funeral establishment shall show that a managing funeral

director and managing embalmer are employed by the establishment. All applications for a license to operate a crematory shall show that a managing cremationist is employed by the establishment. No application for a license of a funeral establishment shall be considered which does not show on the application that a licensed funeral director and licensed embalmer are employed by the establishment. This section shall not be construed to require a full-time licensed embalmer at each funeral establishment. No funeral establishment shall be licensed except upon the basis of a licensed employing a managing funeral director who lives within 75 miles of the funeral establishment. All embalming must shall be performed under a licensed embalmer, but such. A licensed embalmer shall is not be restricted from working for more than one funeral establishment.

"b) No ~~licensed~~ managing funeral director, based upon whose license or licenses a funeral establishment license has been issued, may serve as the regularly employed ~~licensed~~ managing funeral director at another funeral establishment ~~which is~~ owned by a different person, firm, or corporation at the same time for the purpose of qualifying ~~such~~ the other establishment under this chapter.

"(c) It is hereby declared to be the legislative intent of this chapter that every funeral establishment in this state shall be operated under the full charge, control, and supervision of ~~an individually licensed~~ a managing funeral director ~~or a person licensed both as a funeral director and~~

1 as an and a managing embalmer; provided, that this. This  
2 section shall not preclude an unlicensed person from being in  
3 charge of the bookkeeping or records of such an establishment.  
4 The name of the licensed person to be in charge of each  
5 funeral establishment shall be stated on the application for  
6 all licenses or renewal of such the licenses.

7                 "(d) The issuance of a license to operate a funeral  
8 establishment to a person who is not individually licensed as  
9 a funeral director or embalmer does not entitle the person to  
10 practice embalming or funeral directing, as defined by this  
11 chapter, it being the intent of this chapter that such  
12 practice may be performed only through individually licensed  
13 funeral directors and embalmers; and, in addition to all other  
14 grounds for suspension of a funeral establishment license as  
15 enumerated in this chapter, a funeral establishment license  
16 shall be revoked by the board upon hearing thereon if any  
17 person, whether owner, officer, stockholder, or otherwise, who  
18 is connected with the funeral home shall perform any of the  
19 functions of a funeral director or embalmer as defined herein  
20 or shall hold himself or herself out as a funeral director.

21                 "§34-13-113.

22                 "(a) Application for a license to operate a funeral  
23 establishment shall be made in writing on a form provided by  
24 the board. The application shall be verified by the applicant  
25 or, if the applicant is a corporation, firm, or other  
26 organization, by an officer or member thereof, and shall be  
27 accompanied by an application fee established by the board not

1 to exceed five hundred dollars (\$500). The application shall  
2 disclose all of the following:

3                 "(1) The name and address of the establishment.  
4                 "(2) That the establishment is operated by a  
5 ~~licensed~~ managing funeral director and a ~~licensed~~ managing  
6 embalmer or a person licensed both as a funeral director and  
7 embalmer.

8                 "(3) A description and photographs of the buildings,  
9 equipment, and facilities of the establishment.

10                 "(4) That the establishment has a sanitary, properly  
11 equipped embalming room, a room suitable for public viewing or  
12 other funeral services that is able to accommodate a minimum  
13 of 100 people, an office for arrangement conferences with  
14 relatives or authorized representatives, and a display room  
15 containing a stock of adult caskets and funeral supplies  
16 displayed in full size, cuts, photographs, or electronic  
17 images. At no time shall less than eight different adult full  
18 size caskets and at least one operating and properly licensed  
19 funeral coach or hearse equipped for transporting human  
20 remains in a casket or urn be on the premises. A funeral  
21 establishment, that has more than one location under the same  
22 ownership wherein the profession of funeral directing is  
23 practiced, is not required to maintain more than one  
24 preparation room upon satisfying requirements prescribed by  
25 the board.

26                 "(5) Such other information as may be required by  
27 the board.

"(b) Upon receipt of the application, the board shall make inspection of the funeral establishment. If the board determines that the establishment meets the qualifications prescribed by law, it shall issue a license to operate a funeral establishment.

"(c) Application for a license to operate a mortuary service shall be made in writing on a form provided by the board. The application shall be verified by the applicant or, if the applicant is a corporation, firm, or other organization, by an officer or member thereof, and shall be accompanied by an application fee established by the board not to exceed five hundred dollars (\$500). The application shall disclose all of the following:

"(1) The name and address of the proposed mortuary service.

"(2) That the mortuary service applicant is operated by a licensed embalmer or a person licensed both as a funeral director and embalmer.

"(3) A description and photographs of the buildings, equipment, and facilities of the mortuary service applicant.

"(4) That the mortuary service applicant has a sanitary, properly equipped embalming room.

"(5) Such other information as may be required by the board.

"(d) Upon receipt of the application, the board shall make inspection of the premises of the mortuary service applicant. If the board determines that the mortuary service

1 applicant meets the qualifications prescribed by law, it the  
2 board shall issue a license to operate a mortuary service.

3 "§34-13-115.

4 "(a) The board may revoke, suspend, place on  
5 probation, or refuse to renew a license issued to an operator  
6 of a funeral establishment or mortuary service as provided in  
7 this chapter.

8 "(b) If, upon a complaint made to it the board or  
9 otherwise, the board has reason to believe that the operator  
10 of a funeral establishment or mortuary service has failed to  
11 comply with this chapter or the ~~regulations~~ rules of the  
12 board, it the board shall conduct an investigation. If it  
13 appears to the board that there is reasonable ground to  
14 believe that the operator has failed so to comply, it the  
15 board shall conduct a hearing on the matter. Notice of the  
16 time and place of the hearing, setting forth the respects in  
17 which failure to comply is charged, shall be sent to the  
18 operator no later than 15 days prior to the date set for the  
19 hearing. The operator may have the assistance of counsel at  
20 the hearing.

21 "(c) If, ~~upon the hearing~~, the board finds that the  
22 operator has failed to comply with this chapter or the  
23 ~~regulations~~ rule of the board, it the board may revoke,  
24 suspend, or refuse to renew the license.

25 "§34-13-116.

26 "Any person, firm, partnership, society, group, or  
27 corporation who has control of a funeral home, mortuary,

chapel, funeral establishment, crematory, or mortuary service and fails to register same according to this chapter, upon conviction, may be fined not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) for each violation, and each day that the funeral home, mortuary, chapel, funeral establishment, crematory, or mortuary service is operated shall be deemed to be a separate and distinct violation of this chapter.

"§.

"(a) It shall be unlawful for any No person, firm, corporation, association, or entity, or funeral establishment, or branch thereof, may to operate a crematory or practice cremation without for the purpose of cremating dead human bodies, unless licensed by the board as a funeral establishment and the crematory being licensed as a funeral establishment in accordance with this chapter registered with the board and inspected by the board before any cremations of human remains are performed.

"(b) Any funeral establishment performing cremation services shall certify by affidavit to the board that any cremationist conducting cremations has received adequate and appropriate training or experience in the practice of cremation. A crematory shall satisfy all of the following requirements and have the following minimum equipment, facilities, and personnel:

"(1) Registered with the board.

1                         "(2) Inspected by the board before performing any  
2                         cremations.

3                         "(3) Fixed on the premises of a funeral  
4                         establishment. For the purposes of this subdivision, fixed  
5                         means permanently attached to the real property where the  
6                         establishment is situated.

7                         "(4) Owned by the same individual, partnership, or  
8                         corporation as the funeral establishment.

9                         "(5) Under the full charge and supervision of a  
10                         managing cremationist who is licensed by the board as both a  
11                         funeral director and cremationist and listed on the  
12                         application as the managing cremationist. No managing  
13                         cremationist may serve as the regularly employed managing  
14                         cremationist at another crematory which is owned by a  
15                         different person, firm, or corporation at the same time for  
16                         the purpose of qualifying the other crematory under this  
17                         chapter.

18                         "(6) Subject to all local, state, and federal health  
19                         and environmental protection requirements and shall obtain all  
20                         necessary licenses and permits from the board, the Alabama  
21                         Department of Public Health, the Environmental Protection  
22                         Agency, the Alabama Department of Environmental Management,  
23                         and other appropriate local, state, or federal agencies.

24                         "(7) Have a holding room within the crematory  
25                         facility designated for the retention of human remains before  
26                         and after cremation.

27                         "(8) Have at least one of each of the following:

"a. An operable refrigeration unit for the storage of human remains.

"b. An operable cremation chamber for the cremation of human remains.

"c. An operable processor for reducing identifiable bone fragments.

"d. An operable ventilation unit in conjunction with the processor.

"e. A hand washing sink with hot and cold running water.

"(9) Have all other necessary equipment and supplies, in working condition, needed to complete the cremation process.

"(10) Have nonporous floors in the holding room, refrigeration unit, and around the cremation chamber.

"(11) Maintained in a clean, orderly, and sanitary manner.

"(c) The board shall adopt and enforce rules and regulations as may be reasonable and necessary for the operation of crematories to protect the health, welfare, and safety of the people of this state. The application to operate a crematory shall be made in writing on a form prescribed by the board. The application shall be verified by the applicant or, if the applicant is a corporation, firm, or other organization, by an officer or member thereof, and shall be accompanied by an initial application fee established by the board not to exceed five hundred dollars (\$500).

1                         "(d) Upon receipt of the application, the board  
2 shall make inspection of the crematory. No crematory shall  
3 operate unless the crematory facility and funeral  
4 establishment have been inspected and approved as meeting all  
5 requirements of this chapter and rules of the board.

6                         "(e) Each funeral establishment and crematory which  
7 performs cremations shall maintain the following records:

8                         "(1) A cremation log containing any information  
9 required by the board.

10                         "(2) A copy of the cremation authorization form and  
11 the state identification form.

12                         "(3) A copy of the affidavit attesting to each  
13 cremation performed and, if the cremation is performed for  
14 another funeral establishment or entity, the identity of that  
15 funeral establishment or entity.

16                         "(e)-(d) The board shall inspect the records and  
17 premises of any funeral establishment operating a crematory.  
18 In making inspections, the board shall have access to all  
19 records, the crematory building, the cremation chambers or  
20 furnaces, and the ~~storage areas~~ holding room for human remains  
21 before and after cremation, ~~during regular office hours or the~~  
22 ~~hours the crematory is in operation~~. No prior notification of  
23 the inspection is required to be given to the funeral  
24 establishment. If any funeral establishment performing  
25 cremation services fails to allow an inspection or any part  
26 thereof, it shall be grounds for the suspension or revocation  
27 of a license or other disciplinary action against the

1 licensee, as the board may deem reasonable and necessary to  
2 the extent of the law. The board shall conduct annually ~~a~~  
3 ~~minimum of at least~~ one unannounced inspection of each  
4 licensed funeral establishment performing cremation services.

5 " ~~(f)~~ ~~(e)~~ Each funeral establishment performing  
6 cremation services shall keep records as required by the board  
7 to assure compliance with all laws relating to the disposition  
8 of human remains, and shall file annually with the board on  
9 October 1 a cremation report in the form prescribed by the  
10 board, describing the operations of the licensee, including  
11 the number of cremations ~~made~~, the disposition thereof, and  
12 any other information ~~as~~ the board may, ~~from time to time~~,  
13 require. Records required by the board shall be kept for four  
14 years by the funeral establishment.

15 " ~~(g)~~ ~~(f)~~ Each funeral establishment performing  
16 ~~cremation services~~ cremations shall report maintain and submit  
17 a copy of the service, maintenance, or inspection reports of  
18 work completed or performed on the cremation chamber to the  
19 board any maintenance or inspections performed within 30 days  
20 of the maintenance or inspection after completion.

21 " ~~(h)~~ ~~(g)~~ A funeral establishment ~~performing~~ cremation  
22 ~~services shall be subject to all local, state, and federal~~  
23 ~~health and environmental protection requirements and shall~~  
24 ~~obtain all necessary licenses and permits from the Alabama~~  
25 ~~Board of Funeral Service, the federal and state Departments of~~  
26 ~~Health and Human Services, and the state and federal~~  
27 ~~Environmental Protection Agencies, or other appropriate local,~~

1 state, or federal agencies, or branch thereof, that has a  
2 crematory for cremating dead human remains shall at all times  
3 comply with this chapter and any board rule adopted pursuant  
4 to this chapter. Failure to comply, as determined by the  
5 board, may result in the revocation of the license of the  
6 funeral establishment, or branch thereof, pursuant to this  
7 chapter.

8 " (i) The board shall adopt and enforce rules as  
9 reasonable and necessary for the operation of crematories in  
10 the state and to protect the health, welfare, and safety of  
11 the people of this state.

12 " (j) A (h) No ~~crematory facility licensed by the~~  
13 ~~board may be used only for the cremation of deceased animals~~  
14 human remains.

15 " (k) A funeral establishment or crematory operating  
16 in the state before October 1, 2017, shall file with the board  
17 all new forms as required by this section, and shall be exempt  
18 from any new crematory facility requirements of this chapter  
19 that become effective on the effective date of the act adding  
20 this subsection. If major structural renovations are made to  
21 the crematory facility, the cremation chamber is relocated, or  
22 the funeral establishment is closed and reopened, the affected  
23 crematory facility shall satisfy all requirements relating to  
24 crematory facilities as provided in this chapter. Each  
25 cremationist licensed by the board on the effective date of  
26 the act adding this subsection shall have until October 1,  
27 2018, to satisfy the requirements of Section 34-13-120.01.

1                   "§34-13-121.

2                   "(a) Human remains shall not be cremated under  
3                   either of the following circumstances:

4                   "(1) Within within 24 hours after the time of death,  
5                   unless death was a result of an infectious, contagious, or  
6                   communicable disease and unless the disease is verified and  
7                   the time requirement waived by a medical examiner, county  
8                   health director, county coroner, or attending physician where  
9                   the death occurred.

10                  "(2) Without a completed ~~(b)~~ A cremation  
11                  authorization form ~~prescribed~~ approved by the board ~~shall be~~  
12                  and signed by the authorizing agent and ~~must accompany any~~  
13                  ~~request for cremation~~ a completed state identification form. A  
14                  copy of the cremation authorization shall be presented with  
15                  the body to the crematory before any cremation process may be  
16                  initiated.

17                  "(b) All cremations of human remains performed in  
18                  this state shall be arranged through a funeral establishment  
19                  licensed by the board pursuant to this chapter.

20                  "(c) Whenever a crematory is unable or unauthorized  
21                  to cremate human remains immediately upon taking custody of  
22                  the remains, the human remains shall be placed and kept in  
23                  refrigeration in accordance with this chapter.

24                  "(d) A crematory may not accept human remains from  
25                  another funeral establishment without all of the following:

26                  "(1) The remains shall be accompanied by a completed  
27                  cremation authorization form signed by an authorizing agent.

1                   "(2) A state identification form with the signature  
2 of the releasing party.

3                   "(3) An undetachable ankle bracelet identifying the  
4 remains.

5                   "(4) The remains shall be delivered or immediately  
6 placed in a combustible cremation container marked with  
7 identifying information of the human remains contained within.  
8 Human remains may not be removed from the cremation container  
9 and the cremation container shall be cremated with the human  
10 remains, unless the cremation container is metal and the  
11 authorizing agent has been informed in writing that the  
12 crematory does not cremate metal containers.

13                  "(e) A cremation container shall be all of the  
14 following:

15                  "a. Composed of readily combustible materials  
16 suitable for cremation.

17                  "b. Able to be closed in order to provide a complete  
18 covering for the human remains.

19                  "c. Resistant to leakage or spillage.

20                  "d. Rigid enough for handling with ease.

21                  "e. Able to provide protection for the health,  
22 safety, and personal integrity of crematory personnel.

23                  "f. Equipped with a covering that clearly identifies  
24 the name and date of death of the decedent.

25                  "(f)-(e) It shall be disclosed to the family member  
26 serving as the authorizing agent that he or she, or his or her  
27 designee, may witness the transportation of the human remains

1 to be cremated to the crematory. Every funeral establishment  
2 performing cremation services that prohibits relatives or the  
3 responsible party from viewing the cremation process shall  
4 disclose this fact in writing to the person or persons  
5 entitled to custody of the remains prior to the signing of any  
6 contract.

7                 "(g)-(d) An authorizing agent has the duty to inform  
8 the funeral director of the presence of a pacemaker or other  
9 potentially hazardous implant, including any toxic or  
10 explosive-type sealed implants in the human remains. The  
11 funeral director shall be responsible for ensuring that all  
12 necessary steps have been taken to remove the pacemaker before  
13 delivering the human remains to the crematory. Should the  
14 cremationist discover the presence of a pacemaker or other  
15 hazardous implants in the human remains, the cremationist  
16 shall arrange for the removal of the pacemaker or other  
17 hazardous implant.

18                 "(h)-(e) The simultaneous cremation of the human  
19 remains of more than one person within the same ~~retort~~  
20 cremation chamber, without the prior written consent of the  
21 authorizing agent, is prohibited. ~~It is hereby the declared~~  
22 ~~intent of this subsection that establishments~~ Any funeral  
23 establishment performing cremations in accordance with this  
24 chapter may cremate only dead human remains.

25                 "(i)-(f) Upon the completion of each cremation, and  
26 insofar as is practicable, all of the recoverable residue of  
27 the cremation process shall be removed from the ~~retort~~

1                   cremation chamber and placed in a separate container and may  
2                   not be commingled with cremated remains of another person nor  
3                   shall cremated remains of a dead human be divided or separated  
4                   without the prior written consent of the authorizing agent.

5                   "(j) (g) Each funeral establishment and crematory  
6                   which offers or performs cremations shall maintain an complete  
7                   a state identification system that ensures its ability to  
8                   identify the human remains in its possession throughout all  
9                   phases of the cremation process. Upon completion of the  
10                   process, the cremationist must attest to the identity of the  
11                   cremated remains, and the date, time, and place the cremation  
12                   process occurred on a form issued by the board form. The form  
13                   shall accompany the human remains in all phases of  
14                   transportation, cremation, and return of cremated remains. All  
15                   human remains to be cremated shall have the state  
16                   identification form and a undetachable ankle bracelet  
17                   identifying the remains.

18                   "(h) Each funeral establishment and cremationist  
19                   which offers or performs cremations shall maintain a record of  
20                   all cremations performed, which shall include the name of the  
21                   decedent, the date of death, the date and time of the  
22                   cremation, the signature of the cremationist performing the  
23                   cremation, a copy of the authorization for cremation, a copy  
24                   of the affidavit attesting to the cremation, and, if the  
25                   cremation is performed for any other funeral establishment or  
26                   entity, the identity of this establishment or entity.

1                         "(i) Human remains must be delivered to a crematory  
2                         in a combustible cremation container. Human remains shall not  
3                         be removed from the cremation container and the cremation  
4                         container shall be cremated with the human remains, unless the  
5                         authorizing agent has been informed in writing that the  
6                         crematory does not cremate metal containers.

7                         "(k) Upon completion of the cremation process, the  
8                         cremationist shall attest to the identity of the cremated  
9                         remains and the date, time, and place the cremation process  
10                         occurred on a form prescribed by the board.

11                         "(l) Each crematory shall maintain the internal  
12                         identification system prescribed by the board to ensure the  
13                         ability to identify the human remains in the possession of the  
14                         crematory throughout all phases of the cremation process. Upon  
15                         completion of the cremation process, a copy of the state  
16                         identification form shall be issued to the family certifying  
17                         the identity of the cremated remains being issued to the  
18                         family or funeral establishment.

19                         "§34-13-130.

20                         "(a) Every person desiring to engage as an  
21                         apprentice shall satisfy all of the following:

22                         "(1) Make ~~make~~ application as a funeral director's  
23                         apprentice or an embalmer's apprentice to the board upon a  
24                         form provided by the board. The applicant shall submit to the  
25                         board a form, sworn to by the applicant, that contains the  
26                         name, date of birth, and Social Security number of the  
27                         applicant, and two complete sets of fingerprints, for

1                   completion of a criminal history background check. The board  
2                   shall submit the fingerprints to the Alabama State Law  
3                   Enforcement Agency for a state criminal history record check.  
4                   The fingerprints shall be forwarded by the agency to the  
5                   Federal Bureau of Investigation for a national criminal  
6                   history record check. Costs associated with conducting a  
7                   criminal history background check shall be paid by the  
8                   applicant. The board shall keep information received pursuant  
9                   to this subsection confidential, except that information  
10                   received and relied upon in denying the issuance of an  
11                   apprentice certification may be disclosed if necessary to  
12                   support the denial.

13                   "(2) Be ~~The application shall state that the~~  
14                   ~~applicant is~~ over the age of 16, 18.

15                   "(3) Hold ~~holds~~ a high school certificate or the  
16                   equivalent, or is currently enrolled and actively working  
17                   toward graduation from an accredited high school and is.

18                   "(4) Be of good moral character.

19                   "(b) The application shall be verified by the oath  
20                   of the applicant and be accompanied by a fee to be established  
21                   by the board, not to exceed twenty dollars (\$20).

22                   "(c) The executive ~~secretary~~ director, whenever it  
23                   appears to him or her that no reason exists for the denial of  
24                   an application and that the application is regular upon its  
25                   face, may issue to the applicant a certificate of  
26                   apprenticeship, without submitting the application to the  
27                   board. If, however, any doubt exists as to the qualifications

1 of the applicant, the application shall be submitted to the  
2 board and may be accepted or rejected by a majority of the  
3 board.

4                 "(d) The period of apprenticeship of a funeral  
5 director's apprentice or an embalmer's apprentice ~~must~~ shall  
6 be performed in Alabama under the supervision of a funeral  
7 director or embalmer, respectively, licensed by the board.

8                 "(e) A licensed funeral director or a licensed  
9 embalmer may supervise no more than three apprentices at any  
10 given time, unless otherwise provided for by the board.

11                 "(f) Only a licensed funeral director or licensed  
12 embalmer, whose license is in good standing, may supervise an  
13 apprentice.

14                 "(g)-(b) The regular course of apprenticeship shall  
15 be two years, but the apprentice is entitled to two weeks time  
16 off each year, without leave of absence from the board.

17                 "(h) An apprentice shall be enrolled in the funeral  
18 service program at an accredited mortuary school within one  
19 year after the original start date of his or her  
20 apprenticeship. If an apprentice is not enrolled in mortuary  
21 school within that time period, then the apprenticeship may  
22 not be renewed and the apprenticeship may not be reactivated  
23 until the apprentice provides proof of enrollment.

24                 "§34-13-131.

25                 "A certificate of apprenticeship issued as provided  
26 for ~~herein~~ in this chapter shall be signed by the apprentice  
27 and shall be renewable annually upon the payment by the holder

1 by October 1 of each year of an annual renewal fee to be  
2 established by the board, not to exceed \$20 twenty dollars  
3 (\$20). Failure to pay the renewal fee by the prescribed date  
4 of any year shall cause the certificate to become delinquent,  
5 in which case it shall be renewed only for good cause shown.  
6 No person may be granted a certificate of apprenticeship as  
7 funeral director's apprentice or embalmer's apprentice,  
8 respectively, for more than three consecutive years, excepting  
9 as provided. The board shall ~~mail~~ send, on or before August 1  
10 of each year, to each registered apprentice at his or her last  
11 known address, a notice that his or her renewal fee is due and  
12 payable and that, if not paid by October 1, his or her license  
13 ~~will~~ shall lapse.

14 "§34-13-132.

15 "All apprentices registered as provided in this  
16 chapter shall be under the supervision and control of the  
17 board and shall be required to report to the board annually on  
18 ~~January~~ October 1, upon forms provided by the board, showing  
19 the work which such apprentices have performed during the  
20 annual period preceding the first of the month on which the  
21 report is made, including the number of hours served and the  
22 number of bodies the apprentice has assisted in embalming or  
23 otherwise prepared for disposition during such period. The  
24 information contained in the report shall be certified to as  
25 correct by the funeral director or embalmer by whom the  
26 apprentice has been employed during ~~such~~ his or her  
27 apprenticeship period.

1                   "§34-13-134.

2                   "(a) The board has power to suspend ~~or,~~ revoke, or  
3                   place on probation a certificate of apprenticeship, ~~after~~  
4                   notice and upon hearing, where the apprentice is guilty of any  
5                   of the following acts or omissions:

6                   "(1) Failure to devote not less than an average of  
7                   30 hours per week to the duties of his or her apprenticeship.

8                   "(2) Failure to make an annual report to the board  
9                   as required by this chapter.

10                  "(3) Absence from duty except on vacation for an  
11                  aggregate of more than 10 days in any six months or 20 days in  
12                  any year, without leave of absence granted by the board.

13                  "(4) Gross immorality.

14                  "(5) Being on duty as an apprentice while under the  
15                  influence of liquor or illegal drugs.

16                  "(6) Disobedience of proper orders or instructions  
17                  of his or her superiors.

18                  "(7) Violation of ~~any provision of~~ this chapter or  
19                  any rule ~~or regulation~~ of the board ~~made under~~ adopted  
20                  pursuant to this chapter.

21                  "(8) Soliciting business for a funeral director or  
22                  for any embalmer.

23                  "(9) Fraud or misrepresentation in obtaining a  
24                  certificate ~~of registration~~ as an apprentice.

25                  "(b) An apprentice who has failed to renew his or  
26                  her ~~registration certificate~~, or who has had his or her  
27                  certificate of apprenticeship suspended or revoked ~~may~~, within

1       one year after such expiration, suspension, or revocation, may  
2       make application for ~~registration but not reactivation~~. Not  
3       more than two ~~such registrations~~ reactivations shall be  
4       allowed by the board. The board ~~may~~, when the circumstances  
5       warrant, may allow an apprentice credit under a ~~reregistration~~  
6       reactivation for time actually served under a previous  
7       ~~registration certificate~~; except, that if the previous  
8       ~~registration certificate~~ has been suspended or revoked upon  
9       any of the grounds set forth in subsection (a) ~~of this~~  
10      ~~section~~, not more than 75 percent of the time previously  
11      served shall be credited on the ~~reregistration~~ reactivation."

12                   Section 2. Sections 34-13-56.1, 34-13-117,  
13                   34-13-120.1, and 34-13-123 are added to the Code of Alabama  
14                   1975, to read as follows:

15                   §34-13-56.1.

16                   (a) It is unlawful for any person or entity, for  
17                   hire or profit, to engage in, or hold himself, herself, or  
18                   itself out as qualified to engage in any of the following  
19                   without a valid license, certification, or registration issued  
20                   by the board:

21                   (1) The practice of funeral directing.  
22                   (2) The practice of embalming.  
23                   (3) Practicing as an apprentice.  
24                   (4) Operating a crematory.  
25                   (5) Practicing as a cremationist.

26                   (b) Any person or entity who has been found to have  
27                   engaged in the unlawful unlicensed practice of funeral

directing, embalming, apprenticing, operating a crematory, or cremating shall be subject to a fine of not more than two thousand five hundred dollars (\$2,500) for each violation and other sanctions authorized by this chapter.

§34-13-117.

Disposition of human remains shall occur within 48 hours after the time of death or the time the body is released by the coroner or a medical examiner, unless the body has been embalmed by a licensed embalmer in this state, with permission from the authorizing agent, or the body is kept under refrigeration. No public viewing of unembalmed bodies shall be permitted 24 hours after death has occurred. Nothing in this section shall prevent a licensed establishment from requiring identification before disposition.

§34-13-120.1.

No person may conduct, maintain, manage, or operate a cremation facility unless licensed to do so by the board. The board may issue a license to practice as a cremationist after the applicant has satisfied all of the following requirements:

(1) Is at least 21 years of age.

(2) Is a citizen of the United States or legally present in this state.

(3) Is a high school graduate or the equivalent.

(4) Has successfully completed a crematory operator training course approved by the board.

(5) Has completed a course in universal precaution and blood-borne pathogens approved by the board.

(6) Has submitted a completed application and supporting documents, as required by the board, and a fee established by the board that does not exceed three hundred dollars (\$300).

(7) Has successfully completed an examination on Alabama funeral service laws and rules.

(8) Has submitted to the board a form, sworn to by the applicant, that contains the name, date of birth, and Social Security number of the applicant, and two complete sets of fingerprints, for completion of a criminal history background check. The board shall submit the fingerprints to the Alabama State Law Enforcement Agency for a state criminal history record check. The fingerprints shall be forwarded by the agency to the Federal Bureau of Investigation for a national criminal history record check. Costs associated with conducting a criminal history background check shall be paid by the applicant. The board shall keep information received pursuant to this subsection confidential, except that information received and relied upon in denying the issuance of a cremationist license may be disclosed if necessary to support the denial.

(b) Each new employee of a crematory required to be licensed under this section shall be certified within one year after his or her employment. A copy of all certified

cremationist certificates shall be posted in the crematory and available for inspection at any time.

(c) Each funeral establishment performing cremation shall certify by affidavit to the board that each cremationist conducting cremations at the funeral establishment has satisfied all requirements of this chapter to be licensed as a cremationist and received adequate and appropriate training or experience in the practice of cremation.

§34-13-123.

(a) The board may refuse to grant, refuse to renew, suspend, or revoke the license of, or fine a cremationist or crematory, after proper hearing and notice is provided to the licensee, upon the board finding the licensee is guilty of any of the following:

(1) Any violation of this chapter or order or rule of the board.

(2) The performance of a cremation service by a person who is not licensed as a cremationist and who has not completed a training program as required by this chapter.

(3) Operating a building or structure within this state as a crematory without being licensed under this chapter.

(4) Violating any cremation procedure required by this chapter or rule of the board.

(5) Performing a cremation without receipt of a cremation authorization form signed by the authorizing agent.

(6) Signing a cremation authorization form with the actual knowledge that the form contains false or incorrect information.

(7) Accepting human remains from another funeral establishment without a completed cremation authorization form signed by the authorizing agent, a state identification form with the signature of the releasing party, and an undetectable ankle bracelet identifying the remains.

(8) Failure to maintain the internal identification system as required by the board.

(9) Failure to maintain identifying paperwork with the appropriate signatures.

(10) Failure to file an annual cremation report in the form required by the board.

(11) Failure to maintain a current cremation log.

Section 3. Although this bill would have as its purpose or effect the requirement of a new or increased expenditure of local funds, the bill is excluded from further requirements and application under Amendment 621, now appearing as Section 111.05 of the Official Recompilation of the Constitution of Alabama of 1901, as amended, because the bill defines a new crime or amends the definition of an existing crime.

Section 4. This act shall become effective on the first day of the third month following its passage and approval by the Governor, or its otherwise becoming law.