

1 SB94
2 127666-2
3 By Senators Keahey and Ward
4 RFD: Judiciary
5 First Read: 01-MAR-11

1 SB94

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3
4 ENGROSSED

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7 A BILL
8 TO BE ENTITLED
9 AN ACT

10
11 Relating to the Alabama Board of Funeral Service; to
12 amend Sections 34-13-1, 34-13-7, 34-13-9, 34-13-11, 34-13-12,
13 34-13-20, 34-13-22, 34-13-23, 34-13-26, 34-13-50, 34-13-51,
14 34-13-52, 34-13-53, 34-13-55, 34-13-56, 34-13-70, 34-13-72,
15 34-13-73, 34-13-74, 34-13-90, 34-13-94, 34-13-111, 34-13-113,
16 34-13-114, 34-13-115, 34-13-116, 34-13-120, and 34-13-130,
17 Code of Alabama 1975, to define mortuary service and provide
18 further for the contents and square footage of a funeral
19 establishment and mortuary service; to increase the maximum
20 fine for funeral directing or operating a funeral
21 establishment without a license; to require all funeral
22 service, cemetery service, and funeral merchandise pricing to
23 conform to Federal Trade Commission rules; to specify who may
24 enter into a preneed contract; to revise the law relating
25 authorizing an agent for the purpose of directing the
26 disposition of remains and arranging for funeral services; to

1 further limit the liability of a funeral director who relies
2 upon an authorized agent; to provide further for diversity in
3 the membership of the board; to authorize the board to
4 delegate administration of license examinations; to increase
5 the number of days per year board members may receive per diem
6 from 10 to 20; to provide for the filing of a complaint
7 against a licensee and provide procedures for conducting
8 hearings; to require an applicant for licensure as a funeral
9 director to have graduated from an approved embalming school
10 or college; to increase the reciprocal license fees; to
11 provide for a temporary special work permit; to require the
12 public display of certificates of licensure; to increase
13 annual license renewal fees and reinstatement fees for funeral
14 directors, embalmers, and operators; to include failure to
15 cooperate with the board as a ground for punishment of a
16 licensee and to increase fines for violations; to increase the
17 application fee and examination fees for funeral directors; to
18 specify subjects and passing grade for the funeral directors
19 examination; to increase the fee for a special operating
20 permit; to increase the application fee and examination fee
21 for licensure as an embalmer; to specify the passing grade for
22 the embalmer's license examination; to increase the funeral
23 establishment license inspection fee, reinspection fee, annual
24 inspection fee, location transfer fee, and new branch or
25 location fee; to increase the application fee for a license to
26 operate a funeral establishment and provide further for the

1 contents of a funeral establishment; to require the submission
2 of an application, payment of an application fee, and an
3 inspection prior to operating a mortuary service; to increase
4 the fee and charge a fee for changing the name of a funeral
5 establishment or mortuary service; to authorize the board to
6 revoke, suspend, or refuse to renew the license of a mortuary
7 service; to increase the fine imposed upon any person, firm,
8 partnership, society, group, or corporation failing to
9 register a funeral home, mortuary, chapel, funeral
10 establishment, or mortuary service; to prohibit any crematory
11 facility from cremating deceased animals; to delete certain
12 antiquated language pertaining to an apprentice certificate or
13 license; to repeal Section 34-13-28, Code of Alabama 1975,
14 providing for the reporting of receipts and disbursements of
15 the board to the Governor and the Legislature; and to repeal
16 Article 4, consisting of Sections 34-13-150, 34-13-151, and
17 34-13-152, of Chapter 13, Title 34, Code of Alabama 1975,
18 relating to donor eye enucleation licenses; and to specify an
19 effective date.

20 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

21 Section 1. Sections 34-13-1, 34-13-7, 34-13-9,
22 34-13-11, 34-13-12, 34-13-20, 34-13-22, 34-13-23, 34-13-26,
23 34-13-50, 34-13-51, 34-13-52, 34-13-53, 34-13-55, 34-13-56,
24 34-13-70, 34-13-72, 34-13-73, 34-13-74, 34-13-90, 34-13-94,
25 34-13-111, 34-13-113, 34-13-114, 34-13-115, 34-13-116,

1 34-13-120, and 34-13-130 of the Code of Alabama 1975, are
2 amended to read as follows:

3 "§34-13-1.

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

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

13 "a. Mortuary management and administration.

14 "b. Legal medicine and toxicology as it pertains to
15 funeral directing.

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

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

22 "e. Anatomy and physiology.

23 "f. Chemistry, organic and inorganic.

24 "g. Pathology.

25 "h. Bacteriology.

26 "i. Sanitation and hygiene.

1 "j. Public health regulations.

2 "k. Other courses of instruction in fundamental
3 subjects as may be prescribed by the Alabama Board of Funeral
4 Service.

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

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

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

21 Any person engaged in the study of the art of embalming under
22 the instructions and supervision of a licensed embalmer
23 practicing in this state.

24 "(4) APPRENTICE FUNERAL DIRECTOR or FUNERAL
25 DIRECTOR'S APPRENTICE. Any person operating under or in
26 association with a funeral director for the purpose of

1 learning the business or profession of funeral director, to
2 the end that he or she may become licensed under ~~the~~
3 ~~provisions of~~ this chapter.

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

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

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

15 "(8) CEMETERY AUTHORITY. Any individual, person,
16 firm, profit or nonprofit corporation, trustee, partnership,
17 society, religious society, church, association or
18 denomination, municipality, or other group or entity, however
19 organized, insofar as they or any of them may now or hereafter
20 establish, own, operate, lease, control, or manage one or more
21 cemeteries, burial parks, mausoleums, columbariums, or any
22 combination or variation thereof, or hold lands or structures
23 for burial grounds or burial purposes in this state and engage
24 in the operation of a cemetery, including any one or more of
25 the following: The care and maintenance of a cemetery; the
26 interment, entombment, and memorialization of the human dead

1 in a cemetery; the sale, installation, care, maintenance, or
2 any combination thereof, with respect of monuments, markers,
3 foundations, memorials, burial vaults, urns, crypts,
4 mausoleums, columbariums, flower vases, floral arrangements,
5 and other cemetery accessories, for installation or use within
6 a cemetery; and the supervision and conduct of funeral and
7 burial services within the bounds of the cemetery. It is the
8 legislative intent of this chapter that a cemetery authority,
9 to the extent that it engages in any of the activities
10 described in this subdivision, shall not be affected by this
11 chapter and shall not be deemed to have entered into or
12 engaged in the practice of funeral directing, embalming, or
13 funeral establishment operation.

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

19 "(10) CREMATIONIST. A person who performs the
20 procedure of cremation.

21 "(11) CREMATORY. A building or portion of a building
22 that houses a retort and that may house a holding facility for
23 purposes of cremation and as part of a funeral establishment.

24 "(12) EMBALMER. Any person engaged or holding
25 himself or herself out as engaged in the business, practice,
26 science, or profession of embalming, whether on his or her own

1 behalf or in the employ of a registered and licensed funeral
2 director.

3 "(13) EMBALMING. The practice, science, or
4 profession, as commonly practiced, of preserving,
5 disinfecting, and preparing by application of chemicals or
6 other effectual methods, human dead for burial, cremation, or
7 transportation.

8 "(14) FUNERAL. A ceremony for celebrating,
9 sanctifying, or remembering the life of a person who has died.
10 A funeral may be divided into the following two parts:

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

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

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

1 implied the practice of funeral directing; or the holding out
2 to the public that one is a funeral director or engaged in a
3 practice described in this subdivision.

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

1 "(17) ~~(16)~~ FUNERAL ESTABLISHMENTS. The term "~~funeral~~
2 ~~home,~~" "~~mortuary,~~" or "~~funeral establishment~~" shall be
3 ~~construed to be a place~~ includes any funeral home or mortuary
4 service located at a specific street address ~~or location~~ where
5 the profession of funeral directing, embalming, or cremation,
6 ~~as defined in this chapter,~~ is practiced in the care,
7 planning, and preparation for burial or cremation or
8 transportation of human dead, ~~but shall~~. The term does not
9 include any cemetery or land or structure owned, operated,
10 leased, controlled, or managed by any cemetery authority as a
11 cemetery. ~~All of such places~~ A funeral establishment shall
12 consist of and ~~shall~~ maintain all of the following facilities:

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

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

24 "c. At least one ~~motor vehicle~~ operating funeral
25 coach or hearse properly licensed and equipped for
26 transporting human remains in a casket or urn.

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

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

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

9 "(18) ~~(17)~~ FUNERAL SUPPLIES or FUNERAL MERCHANDISE.
10 Caskets made of any material for use in the burial or
11 transportation of human dead; outer receptacles, when sold by
12 a funeral director, including burial vaults and urns, for
13 cremated human remains; clothing used to dress human dead when
14 sold by a funeral director; and all equipment and
15 accouterments normally required for the preparation for burial
16 or funeral and other disposition of human dead.

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

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

24 "(21) ~~(18)~~ MORTUARY SCIENCE. The scientific,
25 professional, and practical aspects, with due consideration
26 given to accepted practices, covering the care, preparation

1 for burial, or transportation of dead human bodies, which
2 shall include the preservation and sanitation of the bodies
3 and restorative art and those aspects related to public
4 health, jurisprudence, and good business administration.

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

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

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

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

23 "(23) ~~(19)~~ OPERATOR. A person, corporation, firm,
24 legal representative, or other organization owning or
25 operating a funeral establishment.

1 "(24) ~~(20)~~ PRACTICAL EMBALMERS. Any person who has
2 been actively and continuously engaged or employed in the
3 practice of embalming under the supervision of a licensed
4 embalmer for four consecutive years immediately preceding May
5 1, 1975, and has been issued a license as a practical embalmer
6 under the grandfather provisions of this chapter.

7 "(25) ~~(21)~~ PROCESSING or PULVERIZATION. The
8 reduction of identifiable bone fragments after the completion
9 of the cremation process to unidentifiable bone fragments or
10 granulated particles by manual or mechanical means.

11 "(26) ~~(22)~~ RETORT. An enclosed space within which
12 the cremation process takes place.

13 "(27) ~~(23)~~ TEMPORARY CONTAINER. A receptacle for
14 cremated remains, usually composed of cardboard, plastic, or
15 similar material, that can be closed in a manner that prevents
16 the leakage or spillage of the cremated remains or the
17 entrance of foreign material, and is a single container of
18 sufficient size to hold the cremated remains until an urn is
19 acquired or the cremated remains are scattered or buried.

20 "(28) ~~(24)~~ URN. A receptacle designed to encase
21 cremated remains.

22 "(b) Nothing in this chapter shall require a funeral
23 director or funeral establishment to have or provide a chapel
24 or to restrict, ~~in any manner,~~ the conduct of funeral services
25 from a church or chapel.

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

15 "§34-13-7.

16 "~~Each and every~~ Any person who embezzles, abstracts,
17 or willfully misapplies any of the moneys, funds, security, or
18 credit of the ~~Alabama Board of Funeral Service~~ board or who
19 misuses any of the funds or fees so collected, by virtue of
20 this chapter, and any person who, with like intent, aids or
21 abets any person in violation of this chapter, ~~or any portion~~
22 ~~thereof,~~ shall be ~~deemed~~ guilty of a felony and, upon
23 conviction ~~thereof,~~ shall be punished by a fine of not less
24 than ~~\$500~~ five hundred dollars (\$500) nor exceeding ~~\$5,000~~
25 five thousand dollars (\$5,000) and imprisonment in the
26 penitentiary for a period of not less than one year and not

1 more than five years, and the principal offenders and those
2 aiding and abetting same may be charged in the same count, and
3 separate offenses may be charged, in separate counts, in the
4 same indictment and tried together. Any person found guilty
5 of offering or of accepting a bribe whereupon any person is
6 illegally licensed to practice embalming, to practice funeral
7 directing, or to operate a funeral establishment in this state
8 shall be punished by a fine of not less than \$500 five hundred
9 dollars (\$500) nor exceeding ten thousand dollars (\$10,000)
10 and may be imprisoned in the penitentiary for a period of one
11 to three years, and the principal offenders and those aiding
12 and abetting same may be charged in the same count and
13 separate offenses may be charged in separate counts in the
14 same indictment and tried together.

15 "§34-13-9.

16 ~~"Each funeral home shall have a card or brochure in~~
17 ~~each casket stating the price of the funeral service using the~~
18 ~~casket and listing the services and other merchandise included~~
19 ~~in the price. Where there are separate prices for the casket,~~
20 ~~the professional services, the use of facilities, and the use~~
21 ~~of equipment, such card shall indicate the price of each such~~
22 ~~item, except in those instances such as unknown transportation~~
23 ~~costs and similar items, which services must be stated with~~
24 ~~the price to be fixed upon billing. When the arrangers decide~~
25 ~~on the type of service desired, the firm must provide or cause~~
26 ~~to be provided to the person or persons making the~~

1 ~~arrangements, at the time such arrangements are completed and~~
2 ~~prior to the time of rendering the service or providing the~~
3 ~~merchandise, a written statement showing (1) the price of the~~
4 ~~service that the person or persons have selected and what is~~
5 ~~included therein; (2) the price of each of the supplemental~~
6 ~~items of service and merchandise requested; (3) the amount~~
7 ~~involved for each of the items for which the funeral service~~
8 ~~home will advance money as an accommodation to the family; and~~
9 ~~(4) the method of payment. No additional charges shall be made~~
10 ~~without approval of the arrangers except as stated in this~~
11 ~~section Funeral service, cemetery service, and funeral~~
12 ~~merchandise pricing shall conform to rules established by the~~
13 ~~Federal Trade Commission.~~

14 "§34-13-11.

15 "The following persons, in the priority listed
16 herein, may serve as an authorizing agent:

17 "(1) The person designated by the decedent as
18 authorized to direct disposition pursuant to Public Law No.
19 109-163, Section 564, as listed on the decedent's United
20 States Department of Defense Record of Emergency Data, DD Form
21 93, or its successor form, if the decedent died while serving
22 on active duty in any branch of the United States Armed
23 Forces, United States Reserve Forces, or National Guard.

24 "(2) The decedent's spouse at the time of the
25 decedent's death.

1 ~~"(3) The decedent's surviving children. If there is~~
2 ~~more than one child who qualifies as an authorizing agent, any~~
3 ~~such child may serve as the authorizing agent except, in the~~
4 ~~case of a cremation, such child must submit by affidavit the~~
5 ~~consent of all other surviving children to serve as~~
6 ~~authorizing agent. If any surviving child is unable to be~~
7 ~~notified of a pending cremation, the remaining children may~~
8 ~~select the authorizing agent by submission of legal~~
9 ~~documentation of the inability to notify the absent child or~~
10 ~~children. If the funeral director receives written objection~~
11 ~~to such cremation from any child before cremation, no~~
12 ~~cremation shall be performed except upon the written~~
13 ~~withdrawal of the objection or upon the order of a court of~~
14 ~~competent jurisdiction.~~

15 ~~"(4) The decedent's surviving parents. If the~~
16 ~~decedent is survived by two parents, either parent may serve~~
17 ~~as the authorizing agent except, in the case of a cremation,~~
18 ~~such parent must submit by affidavit the consent of the other~~
19 ~~surviving parent to serve as authorizing agent. If the other~~
20 ~~surviving parent is unable to be notified of a pending~~
21 ~~cremation, a parent may serve as the authorizing agent by~~
22 ~~submission of legal documentation of the inability to notify~~
23 ~~the absent parent. If the funeral director receives written~~
24 ~~objection to such cremation from either parent before~~
25 ~~cremation, no cremation shall be performed except upon the~~

1 ~~written withdrawal of the objection or upon the order of a~~
2 ~~court of competent jurisdiction.~~

3 ~~"(5) The decedent's surviving siblings. If there is~~
4 ~~more than one sibling who qualifies as an authorizing agent,~~
5 ~~any sibling may serve as the authorizing agent except, in the~~
6 ~~case of a cremation, such sibling must submit by affidavit the~~
7 ~~consent of all other surviving siblings to serve as~~
8 ~~authorizing agent. If any surviving sibling is unable to be~~
9 ~~notified of a pending cremation, the remaining siblings may~~
10 ~~select the authorizing agent by submission of legal~~
11 ~~documentation of the inability to notify the absent sibling or~~
12 ~~siblings. If the funeral director receives written objection~~
13 ~~to such cremation from any sibling before cremation, no~~
14 ~~cremation shall be performed except upon the written~~
15 ~~withdrawal of the objection or upon the order of a court of~~
16 ~~competent jurisdiction.~~

17 ~~"(6) Any person acting on the decedent's signed~~
18 ~~written instructions regarding final disposition contained in~~
19 ~~a preneed funeral contract and, in the case of cremation, a~~
20 ~~cremation authorization form signed by the decedent.~~

21 ~~"(7) Any person serving as executor or legal~~
22 ~~representative of a decedent's estate and acting on the~~
23 ~~decedent's signed, written instructions contained in a will or~~
24 ~~other writing, regardless of whether the will has been~~
25 ~~probated.~~

1 ~~"(8) The person in the next degree of kinship under~~
2 ~~the laws of descent and distribution to inherit the decedent's~~
3 ~~estate. If there is more than one person of the same degree,~~
4 ~~any such person may serve as the authorizing agent.~~

5 ~~"(9) In the case of indigents or any other~~
6 ~~individuals whose final disposition is the responsibility of~~
7 ~~the state or any of its subdivisions or agencies, a public~~
8 ~~administrator, medical examiner, coroner, or any other public~~
9 ~~official charged with arranging the final disposition shall~~
10 ~~serve as the authorizing agent in the absence or refusal of~~
11 ~~any person described in subdivisions (2) to (8), inclusive.~~

12 ~~"(10) In the absence or refusal of any person~~
13 ~~described in subdivisions (2) to (8), inclusive, any person~~
14 ~~willing to assume the responsibility as authorizing agent.~~

15 "(a) A person, who is at least 18 years of age and
16 of sound mind, may enter into a contract to act as authorizing
17 agent and direct the location, manner, and conditions of
18 disposition of remains and arrange for funeral goods and
19 services to be provided upon death. Except as otherwise
20 provided in subsection (b), the right to control the
21 disposition of the remains of a deceased person as an
22 authorizing agent, including the location, manner, and
23 conditions of disposition and arrangements for funeral goods
24 and services to be provided, shall vest in the following
25 persons in the priority listed and the order named, provided
26 the person is at least 18 years of age and of sound mind:

1 "(1) The person designated by the decedent as
2 authorized to direct disposition pursuant to Public Law No.
3 109-163, Section 564, as listed on the decedent's United
4 States Department of Defense Record of Emergency Data, DD Form
5 93, or its successor form, if the decedent died while serving
6 on active duty in any branch of the United States Armed
7 Forces, United States Reserve Forces, or National Guard.

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

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

15 "State of Alabama

16 County of _____

17 "I, _____ designate _____ to
18 control the disposition of my remains upon my death. I ___ have
19 ___ have not attached specific directions concerning the
20 disposition of my remains. If specific directions are
21 attached, the designee shall substantially comply with those
22 directions, provided the directions are lawful and there are
23 sufficient resources in my estate to carry out those
24 directions.

25 "Subscribed and sworn to before me this ___ day of
26 the month of _____ of the year _____.

1 duties of this section if reasonable efforts have been made to
2 notify all surviving grandparents of the instructions and a
3 majority of the surviving grandparents are not aware of any
4 opposition to the instructions.

5 "(8) The guardian of the decedent at the time of the
6 death of the decedent, if a guardian had been appointed.

7 "(9) The personal representative of the estate of
8 the decedent.

9 "(10) The person in the classes of the next degree
10 of kinship, in descending order, under the laws of descent and
11 distribution to inherit the estate of the decedent. If there
12 is more than one person of the same degree, any person of that
13 degree may exercise the right of disposition.

14 "(11) The public officer, administrator, or employee
15 responsible for arranging the final disposition of the remains
16 of the decedent if the disposition of the remains is the
17 responsibility of the state or a political subdivision of the
18 state.

19 "(12) Any other person willing to assume the
20 responsibility of acting on and arranging the final
21 disposition of the remains of the decedent, including the
22 funeral director that has custody of the body, in the absence
23 of any person specified in subdivisions (1) to (11),
24 inclusive. The person shall attest in writing that good faith
25 efforts to contact the persons specified in subdivisions (1)
26 to (11), inclusive, have been unsuccessful.

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

4 "(1) The person is charged with first or second
5 degree murder or voluntary manslaughter in connection with the
6 death of the decedent and the charges are known by the
7 mortician. If the charges against the person are dismissed or
8 the person is acquitted of the charges, the right of
9 disposition shall be reinstated.

10 "(2) The person does not exercise his or her right
11 of disposition within two days after notification of the death
12 of the decedent or within three days after the death of the
13 decedent, whichever is earlier.

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

17 "(4) If the judge of probate court determines,
18 pursuant to subsection (c), that the person entitled to the
19 right of disposition and the decedent were estranged at the
20 time of death. For the purposes of this subdivision, estranged
21 means a physical and emotional separation that has existed for
22 such a period of time that an absence of affection, trust, and
23 regard for the decedent is clearly demonstrated.

24 "(c) Notwithstanding subsections (a) and (b), the
25 judge of probate of the county of residence of the decedent
26 may award the right of disposition to the person the judge of

1 probate determines to be the most fit and appropriate to
2 manage the right of disposition, and may make decisions
3 regarding the remains of the decedent if the persons
4 possessing the right of disposition do not agree. If two or
5 more persons who possess an equal right of disposition are not
6 able by majority vote to agree upon the disposition of the
7 remains of the decedent, any of those persons or the funeral
8 establishment with custody of the remains may file a petition
9 asking the judge of probate to make a determination in the
10 matter. In making such a determination, the judge of probate
11 shall consider all of the following:

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

14 "(2) The degree of the personal relationship between
15 the decedent and each person possessing a right of
16 disposition.

17 "(3) The financial ability and willingness of each
18 person possessing a right of disposition to pay the cost of
19 the funeral and disposition arrangements.

20 "(4) The convenience and needs of other family
21 members and friends who wish to pay their respects and the
22 degree to which the funeral arrangements would allow maximum
23 participation by all who wish to pay their respects.

24 "(5) The desires of the decedent.

25 "(d) Absent negligence, wantonness, recklessness, or
26 deliberate misconduct in the event of a dispute regarding the

1 right of disposition, a funeral establishment may not be held
2 liable for refusing to accept remains, for interring, or for
3 otherwise disposing of the remains of a decedent or for
4 completing arrangements for the final disposition of remains
5 unless and until the funeral establishment receives an order
6 from the judge of probate, or other written agreement signed
7 by all persons possessing a right of disposition, regarding
8 the final disposition of the remains. If a funeral
9 establishment retains remains for final disposition during a
10 disagreement, the funeral establishment may embalm or
11 refrigerate and shelter the body, or both, to preserve the
12 body pending the final decision of the judge of probate. The
13 funeral establishment may add the cost of embalming or
14 refrigeration and sheltering, or both, to the final
15 disposition cost. If a funeral establishment files a petition
16 pursuant to subsection (c), the funeral establishment may add
17 any associated legal fees and court costs to the cost of final
18 disposition. This section may not be construed to require or
19 impose a duty upon a funeral establishment to bring an action
20 pursuant to this section. A funeral establishment and its
21 employees may not be held criminally or civilly liable for not
22 bringing an action pursuant to this section.

23 "(e) Except to the degree that it may be considered
24 by the judge of probate pursuant to subdivision (3) of
25 subsection (c), the fact that a person has paid or has agreed
26 to pay for all or a part of funeral and final disposition

1 arrangements does not give that person a greater voice in
2 right of disposition decisions than he or she would have had
3 otherwise. The personal representative of the estate of a
4 decedent, by virtue of being the personal representative, does
5 not have a greater voice in right of disposition decisions
6 than he or she would have had otherwise.

7 "§34-13-12.

8 ~~"(a) A funeral director or funeral establishment~~
9 ~~that has received expressed written authorization for final~~
10 ~~disposition or cremation from the authorizing agent shall not~~
11 ~~be liable for the final disposition or cremation of the human~~
12 ~~remains designated by the authorization if the disposition or~~
13 ~~cremation is performed in accordance with this chapter, nor~~
14 ~~shall a funeral director or funeral establishment be liable~~
15 ~~for following, in a reasonable fashion, the instructions of~~
16 ~~any person who falsely represents being the proper authorizing~~
17 ~~agent.~~

18 ~~"(b) Absent the receipt of a court order or other~~
19 ~~suitable confirmation of resolution, a funeral director or~~
20 ~~funeral establishment may not be liable for refusing to accept~~
21 ~~human remains for final disposition or for refusing to perform~~
22 ~~a cremation, if the funeral director or other agent of the~~
23 ~~funeral establishment: (1) Is aware of any dispute concerning~~
24 ~~the final disposition or cremation of the human remains; or~~
25 ~~(2) has a reasonable basis for questioning any of the~~
26 ~~representations made by the authorizing agent. A funeral~~

1 ~~director or other agent of the funeral establishment may not~~
2 ~~be liable for refusing to accept human remains for any lawful~~
3 ~~reason.~~

4 "(a) Any person signing a funeral service agreement,
5 cremation authorization form, or any other authorization for
6 disposition by his or her signature shall attest to the
7 truthfulness of any facts set forth in the document including,
8 but not limited to, the identity of the decedent whose remains
9 are to be buried, cremated, or otherwise disposed of and the
10 authority of the person to order the disposition. A funeral
11 establishment may rely on a funeral service agreement,
12 contract, or authorization in carrying out the instructions of
13 the person the funeral establishment reasonably believes to
14 hold the right of disposition. A funeral establishment is not
15 responsible for contacting or independently investigating the
16 existence of any next-of-kin or relative of a decedent. If
17 there is more than one person in a class with equal priority
18 and the funeral establishment has no knowledge of any
19 objection by any other member of that class, the funeral
20 establishment may rely upon and act according to the
21 instructions of the first person in the class to make funeral
22 and disposition arrangements.

23 "(b) Absent negligence, wantonness, recklessness, or
24 deliberate misconduct, no funeral establishment or funeral
25 director who relies in good faith upon the instructions of a
26 person who claims a right of disposition shall be subject to

1 criminal or civil liability, or be subject to disciplinary
2 action, for carrying out the disposition of the remains in
3 accordance with those instructions.

4 "§34-13-20.

5 "(a) There is established the Alabama Board of
6 Funeral Service, consisting of seven members, each of whom
7 shall be citizens of the United States and of the State of
8 Alabama. All members of the former Alabama Embalming Board who
9 are holding office on September 10, 1975, by virtue of that
10 office, shall become members of the Alabama Board of Funeral
11 Service for the term ending December 31, 1976. Not more than
12 one member of the Alabama Board of Funeral Service may reside
13 in the same district as created under Section 34-13-21, and if
14 more than one member of the State Embalming Board resides in
15 one district at the time of the organization of the board, the
16 Governor shall select one member of the Embalming Board to be
17 a member of the original Alabama Board of Funeral Service from
18 the district, and the other member of the Embalming Board
19 shall not be eligible for membership on the board.

20 "(b) At a special meeting called for such purpose,
21 to be held in Montgomery, within 45 days from September 10,
22 1975, the Alabama Funeral Directors Association, Incorporated,
23 and the Alabama Funeral Directors and Morticians Association,
24 Incorporated, in joint meeting, shall nominate three qualified
25 persons for each of the positions as members of the original
26 board of the Alabama Board of Funeral Service which are not

1 filled by members of the State Embalming Board. The names of
2 such persons so nominated shall be promptly certified by the
3 secretary of the Alabama Funeral Directors Association,
4 Incorporated, and the Alabama Funeral Directors and Morticians
5 Association, Incorporated, to the Governor who shall appoint
6 the members of the board from among the persons so nominated.
7 Not more than four members of the board at any time may be
8 members of the same race and the membership of the board shall
9 be inclusive and reflect the racial, gender, geographic,
10 urban/rural, and economic diversity of the state. The board
11 shall annually report to the Legislature by the second
12 legislative day of each regular session the extent to which
13 the board has complied with the diversity provisions provided
14 for in this subsection. The board shall annually report to the
15 Legislature by the second legislative day of each regular
16 session the extent to which the board has complied with the
17 diversity provisions provided for in this subsection. Four
18 members shall be appointed for a term ending December 31,
19 1977, and the board shall be constituted so that the terms of
20 three members of the board shall end December 31, 1976, and
21 the terms of four members shall end December 31, 1977. The
22 terms of the members of the State Embalming Board, who become
23 members of the Alabama Board of Funeral Service under this
24 chapter, shall expire December 31, 1976, unless there are more
25 than three such members, in which event, the Governor shall
26 designate which of the three members of the State Embalming

1 Board shall serve for terms ending December 31, 1976, and
2 which shall serve for terms ending December 31, 1977.

3 "(c) After selection of the original members of the
4 Alabama Board of Funeral Service and during October of each
5 year, all embalmers and all funeral directors licensed under
6 this chapter shall meet in Montgomery, at a time and date in
7 October and at a place fixed by the board, for the purpose of
8 nominating three persons to the Governor for each vacancy on
9 the board, ~~and the~~. Not more than two nominees shall be
10 members of the same race. The Governor shall promptly appoint
11 one of the three persons so nominated.

12 "(d) The successors to the original members of the
13 board shall be selected for terms of two years. After the
14 terms of the original members of the board, four of the
15 members serving on the board shall be practicing and licensed
16 embalmers in Alabama for the last 10 consecutive years
17 immediately preceding their appointment and shall be licensed
18 embalmers and funeral directors in this state under this
19 chapter. Three of the members shall have been actively engaged
20 in funeral directing in Alabama for the last 10 consecutive
21 years preceding their appointment and shall be licensed
22 funeral directors of this state, under this chapter, and
23 ~~shall~~, at the time of their appointment to the board, shall be
24 operators of funeral establishments in this state. If the
25 license of a member of the board as a funeral director or
26 embalmer should be revoked or suspended, such member shall

1 automatically, by reason of such revocation or suspension,
2 become ineligible to serve as a member of the board, and a new
3 member, properly qualified, shall be selected in the same
4 manner provided for appointment to the board. Should a member
5 fail to qualify after appointment, then he or she shall
6 automatically become ineligible to serve as a member of the
7 board, and a new member, properly qualified, shall be
8 appointed and shall serve the remainder of the term of the
9 member so terminated. Each member of the board shall remain an
10 active practicing funeral director or embalmer and funeral
11 establishment operator during his or her tenure of service on
12 the board. Each member may ~~be reappointed for one additional~~
13 ~~two-year term, or new members may be appointed under this~~
14 ~~chapter. No person shall serve more than a total of four years~~
15 ~~as a member of the board~~ serve not more than four consecutive
16 two-year terms. In no event shall more than one member of the
17 board reside in one district. At each meeting where
18 nominations are made for members of the board, only one
19 licensed funeral director or licensed embalmer of each
20 establishment shall have the right to vote for nominees.

21 "(e) Any board member who is elected to the ~~national~~
22 ~~board shall~~ International Conference of Funeral Service
23 Examining Board, upon his or her election, shall begin to
24 serve the state board in an ex officio capacity only, for the
25 duration of his or her ~~national~~ international conference board
26 term. A member, properly qualified, shall be selected in the

1 same manner provided for appointment to the state board and
2 shall serve the remainder of the term of the member elected to
3 the ~~national~~ international conference board.

4 "§34-13-22.

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

24 "§34-13-23.

25 "(a) (1) The board appointed under ~~the provisions of~~
26 this chapter and each successor thereto is authorized to

1 select from its own membership a ~~chairman~~ chair and to adopt
2 and promulgate such rules and regulations for the transaction
3 of its business and for the betterment and promotion of the
4 standards of service and practice to be followed in the
5 funeral service profession in the State of Alabama as it may
6 deem expedient and consistent with the laws of this state and
7 for the public good.

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

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

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

22 "(c) Board members shall be reimbursed for their
23 necessary traveling expenses and the necessary expenses
24 incident to their attendance upon the business of the board,
25 and, in addition thereto, they shall receive the sum of ~~\$50~~
26 fifty dollars (\$50) per diem for every day not to exceed ~~10~~ 20

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

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

24 "(e) The executive secretary ~~of the board~~ shall keep
25 a record in which shall be registered the name and business
26 address of every person to whom licenses have been granted in

1 accordance with this chapter, the number and date of the
2 license and the date of each renewal. Upon request to do so,
3 the executive secretary ~~of the board~~ shall supply each person
4 licensed for the practice of embalming and funeral directing
5 with a list of all persons and establishments holding a
6 license under this chapter, then in force, giving the names of
7 the persons, their business addresses, and the numbers of
8 their licenses.

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

16 "(g) The executive secretary shall serve at the
17 pleasure of the board and shall perform duties as may be
18 necessary for the proper functioning of the board as the board
19 may determine or as may be prescribed in this chapter. During
20 ~~and for three years after his or her~~ the employment, ~~neither~~
21 ~~of~~ the executive secretary ~~nor any member of his or her family~~
22 ~~within the third degree shall~~ he or she may not be employed by
23 any funeral establishment.

24 "(h) All fees and fines received under ~~the~~
25 ~~provisions of~~ this chapter shall be paid into a special fund
26 in the State Treasury to be known as the Alabama State Funeral

1 Directors and Embalmers Fund, which is hereby created, for the
2 necessary and proper expenses of the board, and for a
3 reasonable reserve for future use by the board. All moneys in
4 the fund are hereby appropriated, as a continuing
5 appropriation, to the Alabama Board of Funeral Service to be
6 used for carrying out ~~any of the provisions of~~ this chapter.

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

20 "(j) All members of the board or designated
21 employees of the board are hereby authorized to serve and
22 execute any process issued by any court under ~~the provisions~~
23 ~~of~~ this chapter and to serve and execute any papers or process
24 issued by the board or any officer or member thereof under
25 authority of this chapter.

1 "~~(j)~~ (k) The board may employ clerical assistants
2 and employees or other help as may be necessary to carry out
3 ~~the provisions of~~ this chapter, and the terms and conditions
4 of employment shall be determined by the board. The board may
5 establish and equip an office from which ~~the provisions of~~
6 this chapter may be carried out.

7 "§34-13-26.

8 "(a) The board has the power to adopt and enforce
9 for the protection of the public health, safety, and welfare
10 reasonable rules and regulations.

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

19 "(c) All rules and regulations adopted by the board
20 shall be referenced to the section or sections of this chapter
21 which set forth the legislative standard which it interprets
22 or to which it applies. Every rule and regulation shall be in
23 writing, promulgated by an order, state its effective date, be
24 indexed in a permanent book which shall be a permanent record,
25 and a true copy shall be filed in the office of the Secretary
26 of State of Alabama. A copy of every order promulgating a

1 rule, regulation, or other order containing a requirement of
2 general application shall be mailed to each licensee by first
3 class mail. The failure of a licensee to receive a copy of the
4 rule, regulation, or order shall not exempt or excuse him or
5 her from the duty of compliance with the valid rules,
6 regulations, or orders lawfully issued.

7 "(d) The board shall have power to hold hearings,
8 conduct investigations, subpoena witnesses, administer oaths,
9 and take testimony in order to carry out ~~the provisions of~~
10 this chapter.

11 "(e) A court of competent jurisdiction ~~may~~, upon
12 application of the board, may restrain violations or refusals
13 to comply with ~~the provisions of~~ this chapter or the
14 regulations of the board.

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

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

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

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

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

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

1 supporting the determination is clear, competent, and
2 unequivocal and that the continuation of the licensee to
3 practice would constitute a danger to public health or safety.

4 "§34-13-50.

5 "The Alabama Board of Funeral Service shall
6 recognize and approve and accept applicants for examination
7 from only those established embalming schools or colleges
8 which are recognized by the board. The board shall recognize
9 and approve any embalming school or college approved by the
10 American Board of Funeral Service Education, and any
11 additional embalming schools or colleges which, ~~in the~~
12 ~~judgment of the board,~~ offer courses of study which generally
13 include the subjects set out in Section 34-13-94. The Alabama
14 Board of Funeral Service shall not examine or issue an
15 embalmer's license to any person who does not hold a
16 certificate of graduation from an embalming school or college
17 meeting the criteria or standards as defined in this section.
18 The board may not examine or issue a funeral director's
19 license to any person who does not hold a certificate of
20 graduation from an embalming school or college meeting the
21 criteria or standards defined in this section.

22 "§34-13-51.

23 "(a) The board may, but shall not be required to,
24 recognize and issue, without examination, and upon payment of
25 a fee ~~of one hundred dollars (\$100)~~ not in excess of five
26 hundred dollars (\$500) for each license, a reciprocal license

1 for the practice of funeral directing or embalming to any
2 person licensed as a funeral director or embalmer by any
3 state, if the board makes an individual determination that the
4 ~~applicant's~~ qualifications of the applicant meet or exceed the
5 minimum qualifications required for funeral directors or
6 embalmers in this state and that a written examination of such
7 applicant would be superfluous.

8 "(b) Applications shall be made on forms prescribed
9 and furnished by ~~this~~ the board. An applicant holding a
10 funeral director or embalmer license from another state, and
11 applying for a funeral director or embalmer license in Alabama
12 shall be considered for licensing by reciprocity.

13 "(c) The board ~~shall,~~ at the time of the
14 application, shall make a reasonable determination that the
15 applicant is a legal resident of the United States or legally
16 present in this state. The board reserves the right to require
17 applicants for reciprocity to submit to a personal interview
18 or a written examination relating to the law as it pertains to
19 the regulation of the funeral service profession in Alabama.

20 "(d) The board shall issue a special work permit to
21 a qualified funeral director or embalmer when the board
22 determines that the applicant satisfies all requirements for
23 reciprocity and a fee, not exceeding one hundred dollars
24 (\$100), is received by the board. A special work permit shall
25 expire on the date of the next regular board meeting occurring
26 after issuance.

1 "§34-13-52.

2 "(a) Licenses under this chapter shall be granted to
3 individuals upon the qualification and successful examination
4 of the individual applicant and shall specify the name to whom
5 it is issued. A license granted under this chapter shall be on
6 public display.

7 "(b) A funeral establishment license issued under
8 this chapter shall include the name of the funeral
9 establishment, the name of the managing funeral director, the
10 name of the managing embalmer, and the certificate of
11 authority license number, if applicable. The license shall be
12 on public display.

13 "(c) Every license issued under this chapter shall
14 be signed by the ~~chairman~~ chair and executive secretary ~~of the~~
15 ~~board~~ and shall be displayed in the place of business or
16 employment of the licensee.

17 "(d) Any person engaged in the business, profession,
18 or practice of funeral directing shall do each of the
19 following:

20 "(1) Posses on his or her person, or be able to
21 promptly produce, a legible and current Alabama funeral
22 director's wallet license certificate when performing the
23 duties of a funeral director.

24 "(2) Upon the request of a board member, the
25 executive secretary, the associate executive secretary, or a
26 designated and appropriately identified employee of the board,

1 promptly produce his or her legible and current Alabama
2 funeral director wallet license certificate.

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

5 "(1) Posses on his or her person, or be able to
6 promptly produce, a legible and current Alabama embalmer's
7 wallet license certificate when performing the duties of an
8 embalmer.

9 "(2) Upon the request of a board member, the
10 executive secretary, the associate executive secretary, or a
11 designated and appropriately identified employee of the board,
12 promptly produce his or her legible and current Alabama
13 embalmer wallet license certificate.

14 "§34-13-53.

15 "(a) Every licensed funeral director, every licensed
16 embalmer, and every licensed operator shall pay annually a fee
17 for renewal of his or her license. The renewal fees shall be
18 set by the board at a rate not to exceed ~~fifty dollars (\$50)~~
19 one hundred fifty dollars (\$150) for licensed embalmers and
20 funeral directors and ~~shall not exceed one hundred dollars~~
21 ~~(\$100)~~ five hundred dollars (\$500) for licensed operators.

22 "(b) All licenses granted under this chapter shall
23 expire on October 1, following their issuance or renewal, and
24 shall become invalid unless renewed as provided in this
25 section. There shall be no proration of licenses.

1 "(c) The board shall mail on or before August 1 of
2 each year to each licensed funeral director, to each licensed
3 embalmer, and to each licensed operator, addressed to him or
4 her at his or her last address, a notice that his or her
5 renewal fee is due and payable and that, if such fee is not
6 paid by October 1, the license shall lapse.

7 "(d) At the time, or before, a licensee changes
8 place of employment, residence address, or makes any other
9 change in status which is of record at the board office, the
10 licensee shall report such change of status, on a form
11 provided by the board, to the executive secretary.

12 "§34-13-55.

13 "(a) When a licensee, for any reason, has allowed
14 his or her license to lapse, the board ~~hereby is given power~~
15 ~~of reinstatement, in its discretion,~~ may reinstate the license
16 if application ~~therefor~~ for reinstatement is made within a
17 period of six months from the lapse and is accompanied by
18 payment of all penalties and lapsed fees, from the time of the
19 lapse to date of reinstatement. The penalties to be paid to
20 the board shall ~~be \$25~~ not exceed one hundred dollars (\$100)
21 to reinstate licenses which have lapsed.

22 "(b) After the six-month period has elapsed, such
23 license may be reinstated only by complying with the
24 provisions ~~hereinabove~~ relating to the issuance of an original
25 license in addition to payment of all lapsed fees and
26 penalties.

1 "§34-13-56.

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

6 "(1) Conviction of a crime involving moral
7 turpitude.

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

10 "a. Misrepresentation or fraud in the conduct of the
11 business or the profession of a funeral director or embalmer.

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

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

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

22 "e. Employment directly or indirectly of any
23 apprentice, agent, assistant, embalmer, employee, or other
24 person, on part or full time or on commission, for the purpose
25 of calling upon individuals or institutions where a death has
26 occurred or is imminent by whose influence dead human bodies

1 may be turned over to a particular funeral director or
2 embalmer or funeral establishment, or both.

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

5 "g. Gross immorality.

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

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

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

16 "k. Any violation of this chapter.

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

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

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

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

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

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

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

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

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

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

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

24 "(iv) Not providing reasonable access to the board
25 or an authorized agent or representative of the board for the
26 performance of reviews or inspections at facilities or places

1 utilized by the licensee in the practice of funeral service or
2 funeral directing or in performing any other activity
3 regulated by the board.

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

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

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

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

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

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

1 "(xi) Demonstrating bad faith, incompetence, or
2 untrustworthiness or dishonest, fraudulent, or improper
3 dealing or any other violation of this chapter or any rule
4 promulgated by the board or promulgated by the Federal Trade
5 Commission relative to the practice of funeral service or
6 funeral directing.

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

13 "§34-13-70.

14 "(a) No person shall engage in, or attempt to engage
15 in, the practice or profession or business of a funeral
16 director unless licensed to do so by the Alabama Board of
17 Funeral Service. The board hereby is granted authority to
18 issue license to funeral directors.

19 "(b) Any person desiring to engage in the business,
20 profession, or practice of funeral director shall make
21 application to the board and shall accompany his or her
22 application by a fee to be established by the board, not to
23 exceed ~~\$100~~ one hundred fifty dollars (\$150), whereupon the
24 board shall fix the time and place for the examination of the
25 applicant and shall notify the applicant thereof.

1 "(c) In addition, the board shall establish and
2 charge a reasonable examination fee, based on actual costs,
3 for each applicant who sits for an examination, ~~however, in.~~
4 In no event shall the fee exceed \$25 fifty dollars (\$50) above
5 the actual cost of preparing and administering such exam.

6 "§34-13-72.

7 "An applicant for a funeral director's license is
8 entitled to an examination if he or she satisfies all of the
9 following:

10 "(1) Is a citizen of the United States or legally
11 present in this state.

12 "(2) Is at least 18 years of age.

13 "(3) Has had practical experience as an apprentice
14 for not less than two years within a period of three
15 consecutive years, excluding time lost by interruptions caused
16 by the active duty of the applicant in the military service of
17 the United States or its allies during war or national
18 emergency, and excluding time lost by interruptions which the
19 board deems excusable as caused by circumstances beyond the
20 control of the applicant.

21 "(4) Has completed apprenticeship not more than two
22 years prior to taking the examination, excluding time lost
23 under the circumstances mentioned in subdivision (3).

24 "(5) Has completed a course of instruction in an
25 accredited mortuary or funeral service school or college which
26 has been approved by the board pursuant to Section 34-13-50,

1 or has completed a bachelor's degree program from an
2 accredited school.

3 "§34-13-73.

4 "(a) The applicant for a funeral director's license,
5 before the application is granted, shall successfully pass an
6 examination upon, but not limited to, the following subjects:
7 Funeral directing, the manners in which death may be
8 determined, the laws governing the preparation and disposal of
9 human dead bodies and the shipment of bodies dying from
10 infectious or contagious diseases, and local health and
11 sanitary ordinances in relation to funeral directing. The
12 examination shall be prepared and graded as prescribed by rule
13 of the board. The board may review and adopt, in whole or in
14 part, examination questions, forms, examinations, and passing
15 criteria proposed by the American Board of Funeral Service
16 Education, or a successor organization, and may use the
17 uniform nationwide conditions of the International Conference
18 of Funeral Service Examining Boards, or other organization
19 approved by the board.

20 "(b) The board shall examine applicants for a
21 funeral director's license in all of the following subjects:

22 "(1) Mortuary management and administration.

23 "(2) Mortuary law.

24 "(3) Basic accounting principles.

25 "(4) Funeral directing.

1 "(5) Other courses of instruction in fundamental
2 subjects as may be prescribed by the board.

3 "(c) All examination papers shall be kept on file by
4 the board for at least three years.

5 "(d) To constitute a passing grade, an applicant
6 shall earn an average score of at least 75 percent.

7 "(e) If the board is satisfied that an applicant has
8 the requisite qualifications to practice the occupation of
9 funeral directing, a license shall be issued authorizing the
10 applicant to practice such occupation until October 1 of that
11 year, at which time the license may be renewed as prescribed
12 in this chapter.

13 "§34-13-74.

14 "(a) When a licensed funeral director dies leaving a
15 licensed funeral business with no licensed funeral director,
16 the surviving spouse, or a surviving child of legal age, shall
17 have the right to make application for examination as a
18 funeral director. The application shall be in writing, on a
19 form prescribed by the board, and shall state the facts
20 pertaining to the case. The board may, ~~in its discretion,~~
21 certify the applicant for the examination prescribed for
22 funeral directors, in which event the requirements with
23 respect to prior experience and apprenticeship shall be
24 waived.

25 "(b) When a licensed funeral director dies leaving a
26 licensed funeral business with no licensed funeral director,

1 the board may issue a special operating permit to the operator
2 of such licensed funeral business for a period of 12 months,
3 with the board having the right to extend the permit an
4 additional reasonable time to afford such operator the
5 opportunity of obtaining a licensed funeral director for such
6 business. The operator shall be required to pay a fee for the
7 issuance of the special operating permit in ~~the~~ an amount ~~of~~
8 \$25 not exceeding one hundred dollars (\$100).

9 "(c) All human ~~dead~~ remains embalmed for a funeral
10 establishment operating under a special operating permit and
11 all funeral directing operations carried on under the permit
12 shall be in conformance with all the requirements of this
13 chapter which are not in conflict with this section.

14 "§34-13-90.

15 "(a) No person shall follow, engage in, or hold
16 himself or herself out as engaged in the practice as an
17 embalmer unless licensed to do so by the Alabama Board of
18 Funeral Service. The board ~~hereby~~ is granted authority to
19 issue licenses to embalmers.

20 "(b) All persons shall qualify for examination in
21 accordance with ~~the provisions of~~ this chapter and shall be
22 licensed as an embalmer only after due examination by the
23 board and the payment of an examination and license fee to be
24 established by the board, not to exceed ~~\$100~~ five hundred
25 dollars (\$500).

1 "(c) In addition, the board shall establish and
2 charge a reasonable examination fee, based on actual costs,
3 for each applicant who sits for an examination, ~~however, in.~~
4 In no event shall the fee exceed \$25 fifty dollars (\$50) above
5 the actual cost of preparing and administering such exam.

6 "§34-13-94.

7 "(a) The board shall examine applicants for an
8 embalmer's license in all of the following subjects:

9 "(1) Mortuary management and administration.

10 "(2) Legal medicine and toxicology.

11 "(3) Public health, hygiene, and sanitary science.

12 "(4) Mortuary science, to include embalming
13 technique, in all aspects; chemistry of embalming, color
14 harmony; discoloration, its causes, effect, and treatment;
15 treatment of special cases; restorative art; funeral
16 management; and professional ethics.

17 "(5) Anatomy and physiology.

18 "(6) Chemistry, organic and inorganic.

19 "(7) Pathology.

20 "(8) Bacteriology.

21 "(9) Sanitation and hygiene.

22 "(10) Public health regulations.

23 "(11) Other courses of instruction in fundamental
24 subjects as may be prescribed by the board.

25 "(b) All examination papers shall be kept on file by
26 the board for at least three years.

1 "(c) To constitute a passing grade, an applicant
2 shall ~~receive~~ earn an average ~~mark~~ score of ~~not less than 70~~
3 ~~percent on all subjects. Where the applicant has received a~~
4 ~~mark of less than 70 percent in one or more subjects, such~~
5 ~~applicant shall not be passed, notwithstanding that his or her~~
6 ~~average mark may be higher than 70 percent~~ at least 75
7 percent.

8 "(d) ~~(c)~~ The board may issue an embalmer's license
9 to an applicant who receives a passing grade on a recognized
10 national embalmer's examination approved by the board.

11 "(e) ~~(d)~~ If the board is satisfied that the
12 applicant has the requisite qualifications to practice the
13 occupation of embalming, a license shall be issued to him or
14 her authorizing him or her to practice such occupation until
15 October 1 of that year, at which time the license may be
16 renewed as prescribed in this chapter.

17 "§34-13-111.

18 "(a) No funeral establishment or branch thereof for
19 the preparation, disposition, and care of dead human bodies
20 shall be opened or maintained unless duly licensed by the
21 board. No funeral establishment or branch shall be moved
22 without obtaining a new funeral establishment license from the
23 board.

24 "(b) The board shall ~~charge~~ set a fee ~~of \$35, not~~
25 exceeding one hundred fifty dollars (\$150), that shall be in
26 addition to the license fee for the first inspection of any

1 funeral establishment seeking a license under Section 34-13-72
2 made for the purpose of determining whether such funeral
3 establishment has fulfilled the requirements for licensure
4 ~~hereunder pursuant to this chapter~~. The board shall ~~charge~~ set
5 a fee ~~of \$75,~~ not exceeding one hundred fifty dollars (\$150),
6 for each reinspection necessitated by failure of any funeral
7 establishment to pass such first inspection. ~~All~~ The board, or
8 a representative of the board, shall annually conduct a
9 minimum of one unannounced inspection of funeral
10 establishments and branches shall be inspected by the board,
11 or its representatives, at least once annually, with an
12 inspection fee of ~~\$35,~~ and not more than one hundred dollars
13 (\$100). The inspection fee shall be submitted to the board
14 within 45 days after the inspection. Any funeral establishment
15 that does not submit the inspection fee within 45 days shall
16 be charged a late penalty fee, as established by the board. A
17 funeral establishment, or branch thereof, that is used for the
18 preparation, disposition, and care of dead human bodies shall
19 meet and conform to ~~the provisions of~~ this chapter and to such
20 other lawful standards and requirements as may be determined
21 by rule of the board in furtherance of ~~the provisions of~~ this
22 chapter; and, for failure to do so, the board may revoke such
23 license in accordance with the procedure set forth in this
24 chapter.

25 "(c) Applications for transfer of a license to
26 another location in the same county shall be made upon blanks

1 furnished by the board and shall be accompanied by a fee of
2 ~~\$25~~ not more than seventy-five dollars (\$75). The fee for a
3 new branch or location for a funeral establishment shall be
4 \$250. Any change in ownership ~~must~~ shall be immediately
5 reported to the board.

6 "§34-13-113.

7 "(a) Application for a license to operate a funeral
8 establishment shall be made in writing on a form provided by
9 the board. The application shall be verified by the applicant
10 or, if the applicant is a corporation, firm, or other
11 organization, by an officer or member thereof, and shall be
12 accompanied by an application fee ~~to be~~ established by the
13 board, ~~not to exceed \$300~~ five hundred dollars (\$500). The
14 application shall disclose all of the following:

15 "(1) The name and address of the establishment~~.~~.

16 "(2) That the establishment is operated by a
17 licensed funeral director and a licensed embalmer or a person
18 licensed both as a funeral director and embalmer~~.~~.

19 "(3) A description and photographs of the
20 ~~establishment's~~ buildings, equipment, and facilities of the
21 establishment.~~.~~

22 "(4) That the establishment has a sanitary, properly
23 equipped embalming room, ~~a place for the conduct of funerals,~~
24 ~~and a casket selection room stocked with an average selection~~
25 ~~of caskets;~~ and a room suitable for public viewing or other
26 funeral services that is able to accommodate a minimum of 100

1 people, an office for arrangement conferences with relatives
2 or authorized representatives, and a display room containing a
3 stock of adult caskets and funeral supplies displayed in full
4 size, cuts, photographs, or electronic images. At no time
5 shall less than eight different adult full size caskets and at
6 least one operating and properly licensed funeral coach or
7 hearse equipped for transporting human remains in a casket or
8 urn be on the premises.

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

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

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

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

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

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

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

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

10 "(d) Upon receipt of the application, the board
11 shall make inspection of the premises of the mortuary service
12 applicant. If the board determines that the mortuary service
13 applicant meets the qualifications prescribed by law, it shall
14 issue a license to operate a mortuary service.

15 "§34-13-114.

16 "(a) An operator of a funeral establishment licensed
17 under ~~the provision~~ subsections (a) and (b) of Section
18 34-13-113 and who desires to change the name of the
19 establishment may have his or her license reissued ~~to him or~~
20 her, in the changed name, upon application to the board and
21 payment of a fee ~~of \$25~~ not exceeding seventy-five dollars
22 (\$75).

23 "(b) An operator of a mortuary service licensed
24 under subsections (c) and (d) of Section 34-13-113 who desires
25 to change the name of the mortuary service may have his or her

1 license reissued, in the changed name, upon application to the
2 board and payment of a fee set by the board.

3 "§34-13-115.

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

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

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

23 "§34-13-116.

24 "Any person, firm, partnership, society, group, or
25 corporation who has control of a funeral home, mortuary,
26 chapel, ~~or funeral establishment, as defined in this law,~~ or

1 mortuary service and fails to register same according to ~~the~~
2 ~~provisions of~~ this chapter, upon conviction, may be fined not
3 less than ~~\$300~~ five hundred dollars (\$500) nor more than ~~\$500~~
4 two thousand five hundred dollars (\$2,500) for each violation,
5 and each day that the funeral home, mortuary, chapel, ~~or~~
6 funeral establishment, or mortuary service is operated shall
7 be deemed to be a separate and distinct violation of this
8 chapter.

9 "§34-13-120.

10 "(a) It shall be unlawful for any person, firm,
11 corporation, association, or entity to operate a crematory or
12 practice cremation without the crematory being licensed as a
13 funeral establishment in accordance with this chapter.

14 "(b) Any funeral establishment performing cremation
15 services shall certify by affidavit to the board that any
16 cremationist conducting cremations has received adequate and
17 appropriate training or experience in the practice of
18 cremation.

19 "(c) The board shall adopt and enforce rules and
20 regulations as may be reasonable and necessary for the
21 operation of crematories to protect the health, welfare, and
22 safety of the people of this state.

23 "(d) The board shall inspect the records and
24 premises of any funeral establishment operating a crematory.
25 In making inspections, the board shall have access to all
26 records, the crematory building, the cremation chambers or

1 furnaces, and the storage areas for human remains before and
2 after cremation, during regular office hours or the hours the
3 crematory is in operation. No prior notification of the
4 inspection is required to be given to the funeral
5 establishment. If any funeral establishment performing
6 cremation services fails to allow an inspection or any part
7 thereof, it shall be grounds for the suspension or revocation
8 of a license or other disciplinary action against the
9 licensee, as the board may deem reasonable and necessary to
10 the extent of the law. The board shall conduct annually a
11 minimum of one unannounced inspection of each licensed funeral
12 establishment performing cremation services.

13 "(e) Each funeral establishment performing cremation
14 services shall keep records as required by the board to assure
15 compliance with all laws relating to the disposition of human
16 remains and shall file annually with the board a report in the
17 form prescribed by the board, describing the operations of the
18 licensee, including the number of cremations made, the
19 disposition thereof, and any other information as the board
20 may, from time to time, require.

21 "(f) Each funeral establishment performing cremation
22 services shall report to the board any maintenance or
23 inspections performed ~~by the manufacturer~~ within 30 days of
24 the maintenance or inspection.

25 "(g) A funeral establishment performing cremation
26 services shall be subject to all local, state, and federal

1 health and environmental protection requirements and shall
2 obtain all necessary licenses and permits from the Alabama
3 Board of Funeral Service, the federal and state Departments of
4 Health and Human Services, and the state and federal
5 Environmental Protection Agencies, or other appropriate local,
6 state, or federal agencies.

7 "(h) No crematory facility licensed by the board may
8 be used for the cremation of deceased animals.

9 "§34-13-130.

10 "(a) Every person desiring to engage as an
11 apprentice shall make application as a funeral director's
12 apprentice or an embalmer's apprentice to the board upon a
13 form provided by the board. The application shall state that
14 the applicant is over the age of 16, holds a high school
15 certificate or the equivalent, or is currently enrolled and
16 actively working toward graduation from an accredited high
17 school and is of good moral character. The application ~~must~~
18 shall be verified by the oath of applicant and be accompanied
19 by a fee to be established by the board, not to exceed ~~\$20~~
20 twenty dollars (\$20). The executive secretary ~~of the board~~
21 ~~shall~~, whenever it appears to him or her that no reason exists
22 for the denial of an application and that the application is
23 regular upon its face, ~~have the power to~~ may issue to the
24 applicant a certificate of apprenticeship, without submitting
25 the application to the board. If, however, any doubt exists as
26 to the qualifications of the applicant, the application shall

1 be submitted to the board and may be accepted or rejected by a
2 majority of the board. The period of apprenticeship of a
3 funeral director's apprentice or an embalmer's apprentice must
4 be performed in Alabama under the supervision of a funeral
5 director or embalmer, respectively, licensed by the ~~Alabama~~
6 ~~Board of Funeral Service~~ board.

7 " (b) The regular course of apprenticeship shall be
8 two years, but the apprentice is entitled to two weeks time
9 off each year, without leave of absence from the board. ~~Any~~
10 ~~applicant for an apprentice certificate or license shall be~~
11 ~~credited with all time served as such as an apprentice~~
12 ~~embalmer or funeral director prior to September 10, 1975, upon~~
13 ~~filing of two affidavits confirming such service by a licensed~~
14 ~~embalmer or funeral director under whom such service was~~
15 ~~performed."~~

16 Section 2. All laws or parts of laws which conflict
17 with this act are repealed and specifically Section 34-13-28,
18 Code of Alabama 1975, providing for the reporting of receipts
19 and disbursements of the board to the Governor and the
20 Legislature, and Article 4, consisting of Sections 34-13-150,
21 34-13-151, and 34-13-152, of Chapter 13, Title 34, Code of
22 Alabama 1975, relating to donor eye enucleation licenses, are
23 repealed.

24 Section 3. The provisions of this act are severable.
25 If any part of this act is declared invalid or

1 unconstitutional, that declaration shall not affect the part
2 which remains.

3 Section 4. This act shall become effective October
4 1, 2011, following its passage and approval by the Governor,
5 or its otherwise becoming law.

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Senate

Read for the first time and referred to the Senate
committee on Judiciary..... 01-MAR-11

Read for the second time and placed on the calen-
dar with 1 substitute and..... 24-MAR-11

Read for the third time and passed as amended 27-APR-11

Yeas 26
Nays 0

Patrick Harris
Secretary