

1 SB94  
2 125972-2  
3 By Senators Keahey and Ward  
4 RFD: Judiciary  
5 First Read: 01-MAR-11

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7  
8 SYNOPSIS: Under existing law, the Alabama Board of  
9 Funeral Service provides for the licensing and  
10 regulation of funeral establishments, funeral  
11 directors, and embalmers in the state.

12 This bill would provide further for the  
13 contents and other requirements of a funeral  
14 establishment.

15 This bill would define mortuary service and  
16 would provide for the requirements of a mortuary  
17 service.

18 This bill would increase the fines for  
19 funeral directing or operating a funeral  
20 establishment without a license.

21 This bill would require all funeral service,  
22 cemetery service, and funeral merchandise pricing  
23 to conform to rules established by the Federal  
24 Trade Commission.

25 This bill would specify who may enter into a  
26 preneed contract and would substantially revise the  
27 law relating to who may be an authorizing agent for

1 the purpose of directing the location, manner, and  
2 conditions of disposition of remains and arrange  
3 for funeral goods and services for a decedent.

4 This bill would substantially revise the law  
5 limiting the liability of a funeral director who  
6 relies in good faith upon the directions of an  
7 authorized agent of a decedent.

8 This bill would provide further for  
9 diversity in the membership of the board, would  
10 authorize the board to delegate the responsibility  
11 of administering license examinations, and would  
12 increase the number of days per year board members  
13 may receive per diem from 10 to 20.

14 This bill would provide for the filing of a  
15 complaint against a licensee and would provide  
16 procedures for conducting a due process hearing.

17 This bill would require an applicant for  
18 licensure as a funeral director to have graduated  
19 from an approved and accredited school or college.

20 This bill would increase the reciprocal  
21 license without examination fee from a maximum of  
22 \$100 to a maximum of \$500 and would authorize the  
23 board to issue a temporary special work permit to  
24 an otherwise qualified funeral director or  
25 embalmer.

26 This bill would require the public display  
27 of certificates of licensure.

1                   This bill would increase maximum annual  
2 license renewal fees for funeral directors and  
3 embalmers from \$50 to \$150, for operators from \$100  
4 to \$500, and would increase the maximum  
5 reinstatement fee from \$25 to \$100.

6                   This bill would include failure to cooperate  
7 with the board as a ground for revocation or  
8 refusal to issue or renew a license and would  
9 increase the maximum fine from \$500 to a range of  
10 between \$500 and \$2,500 for each violation.

11                   This bill would increase the maximum initial  
12 application fee for licensure as a funeral director  
13 from \$100 to \$150 and the maximum examination fee  
14 from \$25 to \$50 above the actual cost of  
15 administering the examination, and would specify  
16 the subjects included on the examination and what  
17 constitutes a passing grade on the examination.

18                   This bill would increase the fee for a  
19 special operating permit from \$25 to a maximum of  
20 \$100.

21                   This bill would increase the maximum initial  
22 application fee for licensure as an embalmer from  
23 \$100 to \$500 and the maximum examination fee from  
24 \$25 to \$50 above the actual cost of administering  
25 the examination.

26                   This bill would specify what constitutes a  
27 passing grade on an embalmer's license examination.

1           This bill would increase the initial funeral  
2 establishment license inspection fee from \$35 to a  
3 maximum of \$150, the reinspection fee from \$75 to a  
4 maximum of \$150, the annual inspection fee from \$35  
5 to a maximum of \$100, and the location transfer fee  
6 from \$25 to a maximum of \$75.

7           This bill would increase the maximum initial  
8 application fee for a license to operate a funeral  
9 establishment from \$300 to a maximum of \$500 and  
10 would provide further for the contents of the  
11 funeral establishment.

12           This bill would require and provide a  
13 process for completing an application to operate a  
14 mortuary service, would provide a maximum  
15 application fee of \$500, and would provide for the  
16 contents of and inspection of the premises of the  
17 mortuary service applicant.

18           This bill would increase the fee for  
19 changing the name of a funeral establishment from  
20 \$25 to a maximum of \$75 and would authorize the  
21 board to establish a fee for any mortuary service  
22 making application to change its name.

23           This bill would authorize the board to  
24 revoke, suspend, or refuse to renew the license of  
25 a mortuary service and would increase the fine  
26 imposed upon any person, firm, partnership,  
27 society, group, or corporation failing to register

1 a funeral home, mortuary, chapel, funeral  
2 establishment, or mortuary service from a range of  
3 \$300 to \$500 to a range of \$500 to \$2,500 for each  
4 violation.

5 This bill would specifically prohibit any  
6 crematory facility licensed by the board from  
7 cremating deceased animals.

8 This bill would delete certain antiquated  
9 language pertaining to an apprentice certificate or  
10 license.

11 This bill would also repeal the laws  
12 relating to certain reporting requirements and  
13 donor eye enucleation licenses.

14  
15 A BILL

16 TO BE ENTITLED

17 AN ACT

18  
19 Relating to the Alabama Board of Funeral Service; to  
20 amend Sections 34-13-1, 34-13-7, 34-13-9, 34-13-11, 34-13-12,  
21 34-13-20, 34-13-22, 34-13-23, 34-13-26, 34-13-50, 34-13-51,  
22 34-13-52, 34-13-53, 34-13-55, 34-13-56, 34-13-70, 34-13-72,  
23 34-13-73, 34-13-74, 34-13-90, 34-13-94, 34-13-111, 34-13-113,  
24 34-13-114, 34-13-115, 34-13-116, 34-13-120, and 34-13-130,  
25 Code of Alabama 1975, to define mortuary service and provide  
26 further for the contents and square footage of a funeral  
27 establishment and mortuary service; to increase the maximum

1 fine for funeral directing or operating a funeral  
2 establishment without a license; to require all funeral  
3 service, cemetery service, and funeral merchandise pricing to  
4 conform to Federal Trade Commission rules; to specify who may  
5 enter into a preneed contract; to revise the law relating  
6 authorizing an agent for the purpose of directing the  
7 disposition of remains and arranging for funeral services; to  
8 further limit the liability of a funeral director who relies  
9 upon an authorized agent; to provide further for diversity in  
10 the membership of the board; to authorize the board to  
11 delegate administration of license examinations; to increase  
12 the number of days per year board members may receive per diem  
13 from 10 to 20; to provide for the filing of a complaint  
14 against a licensee and provide procedures for conducting  
15 hearings; to require an applicant for licensure as a funeral  
16 director to have graduated from an approved embalming school  
17 or college; to increase the reciprocal license fees; to  
18 provide for a temporary special work permit; to require the  
19 public display of certificates of licensure; to increase  
20 annual license renewal fees and reinstatement fees for funeral  
21 directors, embalmers, and operators; to include failure to  
22 cooperate with the board as a ground for punishment of a  
23 licensee and to increase fines for violations; to increase the  
24 application fee and examination fees for funeral directors; to  
25 specify subjects and passing grade for the funeral directors  
26 examination; to increase the fee for a special operating  
27 permit; to increase the application fee and examination fee

1 for licensure as an embalmer; to specify the passing grade for  
2 the embalmer's license examination; to increase the funeral  
3 establishment license inspection fee, reinspection fee, annual  
4 inspection fee, location transfer fee, and new branch or  
5 location fee; to increase the application fee for a license to  
6 operate a funeral establishment and provide further for the  
7 contents of a funeral establishment; to require the submission  
8 of an application, payment of an application fee, and an  
9 inspection prior to operating a mortuary service; to increase  
10 the fee and charge a fee for changing the name of a funeral  
11 establishment or mortuary service; to authorize the board to  
12 revoke, suspend, or refuse to renew the license of a mortuary  
13 service; to increase the fine imposed upon any person, firm,  
14 partnership, society, group, or corporation failing to  
15 register a funeral home, mortuary, chapel, funeral  
16 establishment, or mortuary service; to prohibit any crematory  
17 facility from cremating deceased animals; to delete certain  
18 antiquated language pertaining to an apprentice certificate or  
19 license; to repeal Section 34-13-28, Code of Alabama 1975,  
20 providing for the reporting of receipts and disbursements of  
21 the board to the Governor and the Legislature; and to repeal  
22 Article 4, consisting of Sections 34-13-150, 34-13-151, and  
23 34-13-152, of Chapter 13, Title 34, Code of Alabama 1975,  
24 relating to donor eye enucleation licenses; and to specify an  
25 effective date.

26 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:



1                   Section 1. Sections 34-13-1, 34-13-7, 34-13-9,  
2                   34-13-11, 34-13-12, 34-13-20, 34-13-22, 34-13-23, 34-13-26,  
3                   34-13-50, 34-13-51, 34-13-52, 34-13-53, 34-13-55, 34-13-56,  
4                   34-13-70, 34-13-72, 34-13-73, 34-13-74, 34-13-90, 34-13-94,  
5                   34-13-111, 34-13-113, 34-13-114, 34-13-115, 34-13-116,  
6                   34-13-120, and 34-13-130 of the Code of Alabama 1975, are  
7                   amended to read as follows:

8                   "§34-13-1.

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

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

18                  "a. Mortuary management and administration.

19                  "b. Legal medicine and toxicology as it pertains to  
20                  funeral directing.

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

22                  "d. Mortuary science, to include embalming  
23                  technique, in all its aspects; chemistry of embalming, color  
24                  harmony; discoloration, its causes, effects, and treatment;  
25                  treatment of special cases; restorative art; funeral  
26                  management; and professional ethics.

27                  "e. Anatomy and physiology.

- 1 "f. Chemistry, organic and inorganic.
- 2 "g. Pathology.
- 3 "h. Bacteriology.
- 4 "i. Sanitation and hygiene.
- 5 "j. Public health regulations.
- 6 "k. Other courses of instruction in fundamental
- 7 subjects as may be prescribed by the Alabama Board of Funeral
- 8 Service.

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

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

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

25 Any person engaged in the study of the art of embalming under  
26 the instructions and supervision of a licensed embalmer  
27 practicing in this state.

1           "(4) APPRENTICE FUNERAL DIRECTOR or FUNERAL  
2 DIRECTOR'S APPRENTICE. Any person operating under or in  
3 association with a funeral director for the purpose of  
4 learning the business or profession of funeral director, to  
5 the end that he or she may become licensed under ~~the~~  
6 ~~provisions of~~ this chapter.

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

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

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

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

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

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

21 "(10) CREMATIONIST. A person who performs the  
22 procedure of cremation.

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

26 "(12) EMBALMER. Any person engaged or holding  
27 himself or herself out as engaged in the business, practice,

1 science, or profession of embalming, whether on his or her own  
2 behalf or in the employ of a registered and licensed funeral  
3 director.

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

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

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

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

17 "(15) ~~(14)~~ FUNERAL DIRECTING. The practice of  
18 directing or supervising funerals, the practice of preparing  
19 dead human bodies for burial by means other than embalming, or  
20 the preparation for the disposition of dead human bodies; the  
21 making of arrangements or providing for funeral services or  
22 the making of financial arrangements for the rendering of  
23 these services or the sale of this merchandise or supplies;  
24 the provision or maintenance of a place for the preparation  
25 for disposition of dead human bodies; or the use of the ~~words~~  
26 ~~or term~~ " terms funeral director," "undertaker," "mortician,"  
27 "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  
27 for burial, or transportation of dead human bodies, which



1 shall include the preservation and sanitation of the bodies  
2 and restorative art and those aspects related to public  
3 health, jurisprudence, and good business administration.

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

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

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

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

22 "(23) ~~(19)~~ OPERATOR. A person, corporation, firm,  
23 legal representative, or other organization owning or  
24 operating a funeral establishment.

25 "(24) ~~(20)~~ PRACTICAL EMBALMERS. Any person who has  
26 been actively and continuously engaged or employed in the  
27 practice of embalming under the supervision of a licensed

1 embalmer for four consecutive years immediately preceding May  
2 1, 1975, and has been issued a license as a practical embalmer  
3 under the grandfather provisions of this chapter.

4 "(25) ~~(21)~~ PROCESSING or PULVERIZATION. The  
5 reduction of identifiable bone fragments after the completion  
6 of the cremation process to unidentifiable bone fragments or  
7 granulated particles by manual or mechanical means.

8 "(26) ~~(22)~~ RETORT. An enclosed space within which  
9 the cremation process takes place.

10 "(27) ~~(23)~~ TEMPORARY CONTAINER. A receptacle for  
11 cremated remains, usually composed of cardboard, plastic, or  
12 similar material, that can be closed in a manner that prevents  
13 the leakage or spillage of the cremated remains or the  
14 entrance of foreign material, and is a single container of  
15 sufficient size to hold the cremated remains until an urn is  
16 acquired or the cremated remains are scattered or buried.

17 "(28) ~~(24)~~ URN. A receptacle designed to encase  
18 cremated remains.

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

23 "(c) Nothing contained in the definition of funeral  
24 directing, or in any other provision of this chapter, shall ~~be~~  
25 ~~deemed or construed to~~ be applicable to, or to regulate or  
26 restrict, ~~in any manner,~~ cemetery authorities in the conduct  
27 of activities of a cemetery authority ~~as defined in this~~

1 ~~chapter; or to~~ be applicable to, ~~or to~~ regulate or restrict,  
2 ~~in any manner,~~ the carrying on by any cemetery authority of  
3 any ~~and all~~ activities, functions, practices, and services  
4 which may now or hereafter ~~(i)~~ (1) constitute any part of the  
5 operation or management of a cemetery or of the property of a  
6 cemetery ~~as defined in this chapter~~ or ~~(ii)~~ (2) otherwise  
7 consist of the interment or entombment of the human dead or  
8 memorialization of the human dead in any manner within a  
9 cemetery property.

10 "§34-13-7.

11 ~~"Each and every~~ Any person who embezzles, abstracts,  
12 or willfully misapplies any of the moneys, funds, security, or  
13 credit of the ~~Alabama Board of Funeral Service~~ board or who  
14 misuses any of the funds or fees so collected, by virtue of  
15 this chapter, and any person who, with like intent, aids or  
16 abets any person in violation of this chapter, ~~or any portion~~  
17 ~~thereof,~~ shall be ~~deemed~~ guilty of a felony and, upon  
18 conviction ~~thereof,~~ shall be punished by a fine of not less  
19 than ~~\$500~~ five hundred dollars (\$500) nor exceeding ~~\$5,000~~  
20 five thousand dollars (\$5,000) and imprisonment in the  
21 penitentiary for a period of not less than one year and not  
22 more than five years, and the principal offenders and those  
23 aiding and abetting same may be charged in the same count, and  
24 separate offenses may be charged, in separate counts, in the  
25 same indictment and tried together. Any person found guilty  
26 of offering or of accepting a bribe whereupon any person is  
27 illegally licensed to practice embalming, to practice funeral

1 directing, or to operate a funeral establishment in this state  
2 shall be punished by a fine of not less than ~~\$500~~ five hundred  
3 dollars (\$500) nor exceeding ten thousand dollars (\$10,000)  
4 and may be imprisoned in the penitentiary for a period of one  
5 to three years, and the principal offenders and those aiding  
6 and abetting same may be charged in the same count and  
7 separate offenses may be charged in separate counts in the  
8 same indictment and tried together.

9 "§34-13-9.

10 ~~"Each funeral home shall have a card or brochure in~~  
11 ~~each casket stating the price of the funeral service using the~~  
12 ~~casket and listing the services and other merchandise included~~  
13 ~~in the price. Where there are separate prices for the casket,~~  
14 ~~the professional services, the use of facilities, and the use~~  
15 ~~of equipment, such card shall indicate the price of each such~~  
16 ~~item, except in those instances such as unknown transportation~~  
17 ~~costs and similar items, which services must be stated with~~  
18 ~~the price to be fixed upon billing. When the arrangers decide~~  
19 ~~on the type of service desired, the firm must provide or cause~~  
20 ~~to be provided to the person or persons making the~~  
21 ~~arrangements, at the time such arrangements are completed and~~  
22 ~~prior to the time of rendering the service or providing the~~  
23 ~~merchandise, a written statement showing (1) the price of the~~  
24 ~~service that the person or persons have selected and what is~~  
25 ~~included therein; (2) the price of each of the supplemental~~  
26 ~~items of service and merchandise requested; (3) the amount~~  
27 ~~involved for each of the items for which the funeral service~~

1 ~~home will advance money as an accommodation to the family; and~~  
2 ~~(4) the method of payment. No additional charges shall be made~~  
3 ~~without approval of the arrangers except as stated in this~~  
4 ~~section Funeral service, cemetery service, and funeral~~  
5 ~~merchandise pricing shall conform to rules established by the~~  
6 ~~Federal Trade Commission.~~

7           "~~§34-13-11.~~

8           "~~The following persons, in the priority listed~~  
9 ~~herein, may serve as an authorizing agent:~~

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

17           "~~(2) The decedent's spouse at the time of the~~  
18 ~~decedent's death.~~

19           "~~(3) The decedent's surviving children. If there is~~  
20 ~~more than one child who qualifies as an authorizing agent, any~~  
21 ~~such child may serve as the authorizing agent except, in the~~  
22 ~~case of a cremation, such child must submit by affidavit the~~  
23 ~~consent of all other surviving children to serve as~~  
24 ~~authorizing agent. If any surviving child is unable to be~~  
25 ~~notified of a pending cremation, the remaining children may~~  
26 ~~select the authorizing agent by submission of legal~~  
27 ~~documentation of the inability to notify the absent child or~~

1 children. If the funeral director receives written objection  
2 to such cremation from any child before cremation, no  
3 cremation shall be performed except upon the written  
4 withdrawal of the objection or upon the order of a court of  
5 competent jurisdiction.

6 "(4) ~~The decedent's surviving parents. If the~~  
7 ~~decedent is survived by two parents, either parent may serve~~  
8 ~~as the authorizing agent except, in the case of a cremation,~~  
9 ~~such parent must submit by affidavit the consent of the other~~  
10 ~~surviving parent to serve as authorizing agent. If the other~~  
11 ~~surviving parent is unable to be notified of a pending~~  
12 ~~cremation, a parent may serve as the authorizing agent by~~  
13 ~~submission of legal documentation of the inability to notify~~  
14 ~~the absent parent. If the funeral director receives written~~  
15 ~~objection to such cremation from either parent before~~  
16 ~~cremation, no cremation shall be performed except upon the~~  
17 ~~written withdrawal of the objection or upon the order of a~~  
18 ~~court of competent jurisdiction.~~

19 "(5) ~~The decedent's surviving siblings. If there is~~  
20 ~~more than one sibling who qualifies as an authorizing agent,~~  
21 ~~any sibling may serve as the authorizing agent except, in the~~  
22 ~~case of a cremation, such sibling must submit by affidavit the~~  
23 ~~consent of all other surviving siblings to serve as~~  
24 ~~authorizing agent. If any surviving sibling is unable to be~~  
25 ~~notified of a pending cremation, the remaining siblings may~~  
26 ~~select the authorizing agent by submission of legal~~  
27 ~~documentation of the inability to notify the absent sibling or~~

1 ~~siblings. If the funeral director receives written objection~~  
2 ~~to such cremation from any sibling before cremation, no~~  
3 ~~cremation shall be performed except upon the written~~  
4 ~~withdrawal of the objection or upon the order of a court of~~  
5 ~~competent jurisdiction.~~

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

10 ~~"(7) Any person serving as executor or legal~~  
11 ~~representative of a decedent's estate and acting on the~~  
12 ~~decedent's signed, written instructions contained in a will or~~  
13 ~~other writing, regardless of whether the will has been~~  
14 ~~probated.~~

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

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

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

4           "(a) A person, who is at least 18 years of age and  
5 of sound mind, may enter into a preneed contract, as defined  
6 by Section 27-17A-2, to direct the location, manner, and  
7 conditions of disposition of remains and arrange for funeral  
8 goods and services to be provided upon death. Disposition  
9 directions and funeral arrangements contained in a preneed  
10 contract are not subject to cancellation or substantial  
11 revision unless:

12           "(1) The cancellation or revision is ordered by a  
13 person designated by the decedent in the preneed contract as  
14 authorized.

15           "(2) The resources set aside to fund the preneed  
16 contract are insufficient under the terms of the preneed  
17 contract to carry out the disposition directions and funeral  
18 prearrangements contained in the preneed contract.

19           "(b) Except as otherwise provided in subsection (c),  
20 the right to control the disposition of the remains of a  
21 deceased person, including the location, manner, and  
22 conditions of disposition and arrangements for funeral goods  
23 and services to be provided, shall vest in the following  
24 persons in the order named, provided the person is at least 18  
25 years of age and of sound mind:

26           "(1)a. The person designated by the decedent in an  
27 affidavit executed in accordance with paragraph b.



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

6           "State of Alabama

7           County of \_\_\_\_\_

8           "I, \_\_\_\_\_ designate \_\_\_\_\_ to  
9 control the disposition of my remains upon my death. I \_\_\_ have  
10 \_\_\_ have not attached specific directions concerning the  
11 disposition of my remains. If specific directions are  
12 attached, the designee shall substantially comply with those  
13 directions, provided the directions are lawful and there are  
14 sufficient resources in my estate to carry out those  
15 directions.

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

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

19           "(2) The surviving spouse.

20           "(3) The sole surviving child of the decedent or, if  
21 there is more than one surviving child, a majority of the  
22 surviving children. Less than a majority of the surviving  
23 children may be vested with the rights of this section if  
24 reasonable efforts have been made to notify all surviving  
25 children of the instructions and a majority of the surviving  
26 children are not aware of any opposition to the instructions.

1           "(4) The surviving parent or parents of the  
2 decedent. If one surviving parent is absent, the remaining  
3 parent shall be vested with the rights and duties of this  
4 section after reasonable efforts in locating the absent  
5 surviving parent have been unsuccessful.

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

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

22           "(7) The guardian of the decedent at the time of the  
23 death of the decedent, if a guardian had been appointed.

24           "(8) The personal representative of the estate of  
25 the decedent.

26           "(9) The person in the classes of the next degree of  
27 kinship, in descending order, under the laws of descent and

1 distribution to inherit the estate of the decedent. If there  
2 is more than one person of the same degree, any person of that  
3 degree may exercise the right of disposition.

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

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

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

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

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

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

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

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

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

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

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

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

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

13           "(5) The desires of the decedent.

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

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

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

20 "§34-13-12.

21 "(a) A funeral director or funeral establishment  
22 that has received expressed written authorization for final  
23 disposition or cremation from the authorizing agent shall not  
24 be liable for the final disposition or cremation of the human  
25 remains designated by the authorization if the disposition or  
26 cremation is performed in accordance with this chapter, nor  
27 shall a funeral director or funeral establishment be liable

1 for following, in a reasonable fashion, the instructions of  
2 any person who falsely represents being the proper authorizing  
3 agent.

4 ~~"(b) Absent the receipt of a court order or other  
5 suitable confirmation of resolution, a funeral director or  
6 funeral establishment may not be liable for refusing to accept  
7 human remains for final disposition or for refusing to perform  
8 a cremation, if the funeral director or other agent of the  
9 funeral establishment: (1) Is aware of any dispute concerning  
10 the final disposition or cremation of the human remains; or  
11 (2) has a reasonable basis for questioning any of the  
12 representations made by the authorizing agent. A funeral  
13 director or other agent of the funeral establishment may not  
14 be liable for refusing to accept human remains for any lawful  
15 reason.~~

16 "(a) Any person signing a funeral service agreement,  
17 cremation authorization form, or any other authorization for  
18 disposition by his or her signature shall attest to the  
19 truthfulness of any facts set forth in the document including,  
20 but not limited to, the identity of the decedent whose remains  
21 are to be buried, cremated, or otherwise disposed of and the  
22 authority of the person to order the disposition. A funeral  
23 establishment may rely on a funeral service agreement,  
24 contract, or authorization in carrying out the instructions of  
25 the person the funeral establishment reasonably believes to  
26 hold the right of disposition. A funeral establishment is not  
27 responsible for contacting or independently investigating the

1 existence of any next-of-kin or relative of a decedent. If  
2 there is more than one person in a class with equal priority  
3 and the funeral establishment has no knowledge of any  
4 objection by any other member of that class, the funeral  
5 establishment may rely upon and act according to the  
6 instructions of the first person in the class to make funeral  
7 and disposition arrangements.

8 "(b) No funeral establishment or funeral director  
9 who relies in good faith upon the instructions of a person who  
10 claims a right of disposition shall be subject to criminal or  
11 civil liability, or be subject to disciplinary action, for  
12 carrying out the disposition of the remains in accordance with  
13 those instructions.

14 "§34-13-20.

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



1 the district, and the other member of the Embalming Board  
2 shall not be eligible for membership on the board.

3 "(b) At a special meeting called for such purpose,  
4 to be held in Montgomery, within 45 days from September 10,  
5 1975, the Alabama Funeral Directors Association, Incorporated,  
6 and the Alabama Funeral Directors and Morticians Association,  
7 Incorporated, in joint meeting, shall nominate three qualified  
8 persons for each of the positions as members of the original  
9 board of the Alabama Board of Funeral Service which are not  
10 filled by members of the State Embalming Board. The names of  
11 such persons so nominated shall be promptly certified by the  
12 secretary of the Alabama Funeral Directors Association,  
13 Incorporated, and the Alabama Funeral Directors and Morticians  
14 Association, Incorporated, to the Governor who shall appoint  
15 the members of the board from among the persons so nominated.  
16 Not more than four members of the board at any time may be  
17 members of the same race and the membership of the board shall  
18 be inclusive and reflect the racial, gender, geographic,  
19 urban/rural, and economic diversity of the state. Four members  
20 shall be appointed for a term ending December 31, 1977, and  
21 the board shall be constituted so that the terms of three  
22 members of the board shall end December 31, 1976, and the  
23 terms of four members shall end December 31, 1977. The terms  
24 of the members of the State Embalming Board, who become  
25 members of the Alabama Board of Funeral Service under this  
26 chapter, shall expire December 31, 1976, unless there are more  
27 than three such members, in which event, the Governor shall

1 designate which of the three members of the State Embalming  
2 Board shall serve for terms ending December 31, 1976, and  
3 which shall serve for terms ending December 31, 1977.

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

13 "(d) The successors to the original members of the  
14 board shall be selected for terms of two years. After the  
15 terms of the original members of the board, four of the  
16 members serving on the board shall be practicing and licensed  
17 embalmers in Alabama for the last 10 consecutive years  
18 immediately preceding their appointment and shall be licensed  
19 embalmers and funeral directors in this state under this  
20 chapter. Three of the members shall have been actively engaged  
21 in funeral directing in Alabama for the last 10 consecutive  
22 years preceding their appointment and shall be licensed  
23 funeral directors of this state, under this chapter, and  
24 ~~shall~~, at the time of their appointment to the board, shall be  
25 operators of funeral establishments in this state. If the  
26 license of a member of the board as a funeral director or  
27 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  
27 same manner provided for appointment to the state board and

1 shall serve the remainder of the term of the member elected to  
2 the ~~national~~ international conference board.

3 "§34-13-22.

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

23 "§34-13-23.

24 "(a) (1) The board appointed under ~~the provisions of~~  
25 this chapter and each successor thereto is authorized to  
26 select from its own membership a ~~chairman~~ chair and to adopt  
27 and promulgate such rules and regulations for the transaction

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

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

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

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

20 "(c) Board members shall be reimbursed for their  
21 necessary traveling expenses and the necessary expenses  
22 incident to their attendance upon the business of the board,  
23 and, in addition thereto, they shall receive the sum of ~~\$50~~  
24 fifty dollars (\$50) per diem for every day not to exceed ~~10~~ 20  
25 days per year actually spent by the member upon the business  
26 of the board. The board may employ an executive secretary and  
27 associate executive secretary who shall each receive and be

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

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

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

1 with a list of all persons and establishments holding a  
2 license under this chapter, then in force, giving the names of  
3 the persons, their business addresses, and the numbers of  
4 their licenses.

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

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

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

1 appropriation, to the Alabama Board of Funeral Service to be  
2 used for carrying out ~~any of the provisions of~~ this chapter.

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

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

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



1           "§34-13-26.

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

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

13           "(c) All rules and regulations adopted by the board  
14 shall be referenced to the section or sections of this chapter  
15 which set forth the legislative standard which it interprets  
16 or to which it applies. Every rule and regulation shall be in  
17 writing, promulgated by an order, state its effective date, be  
18 indexed in a permanent book which shall be a permanent record,  
19 and a true copy shall be filed in the office of the Secretary  
20 of State of Alabama. A copy of every order promulgating a  
21 rule, regulation, or other order containing a requirement of  
22 general application shall be mailed to each licensee by first  
23 class mail. The failure of a licensee to receive a copy of the  
24 rule, regulation, or order shall not exempt or excuse him or  
25 her from the duty of compliance with the valid rules,  
26 regulations, or orders lawfully issued.

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

5           "(e) A court of competent jurisdiction ~~may~~, upon  
6           application of the board, may restrain violations or refusals  
7           to comply with ~~the provisions of~~ this chapter or the  
8           regulations of the board.

9           "(f) Any person, including a member of the board,  
10          may initiate a complaint against a licensee of the board by  
11          filing with the board a written complaint on a form prescribed  
12          by the board.

13          "(1) Upon receipt of a properly verified complaint,  
14          the board shall send a copy of the complaint to the affected  
15          licensee by certified mail to the address of such licensee  
16          appearing on record with the board. The licensee shall answer  
17          the complaint in writing within 20 days after receipt of the  
18          complaint. The licensee shall mail a copy of his or her  
19          response to the board and the complainant. Upon receipt of the  
20          response of the licensee or lapse of 20 days, the board may  
21          investigate a complaint that appears to show the existence of  
22          any of the causes or grounds for disciplinary action pursuant  
23          to this chapter. Upon finding reasonable cause to believe that  
24          the charges are not frivolous, unfounded, or filed in bad  
25          faith, the board may cause a hearing to be held, at a time and  
26          place fixed by the board, regarding the charges. If a hearing  
27          is held, the board shall order the licensee to appear and show

1 cause why he or she should not be disciplined for a violation  
2 of this chapter.

3 "(2) The board shall give the complainant and the  
4 affected licensee 20 days' notice of any hearing upon a  
5 complaint. Such notice shall be by United States certified  
6 mail.

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

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

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

25 "(6) After opening statements, the complainant shall  
26 present his or her case and the licensee, any counsel, and any

1 member or designee of the board may ask questions of  
2 complainant witnesses.

3 "(7) After the complainant has completed presenting  
4 his or her case, the licensee shall present his or her case  
5 and the complainant, any counsel, and any member or designee  
6 of the board may ask questions of licensee witnesses.

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

10 "(9) At the conclusion of the hearing, the board may  
11 render an immediate decision or take the case under advisement  
12 for further deliberation. A decision of the board shall be  
13 rendered within 90 days after the hearing and a copy of that  
14 decision shall be mailed to the last known business or  
15 residence address of the complainant and the licensee.

16 "(g) The board may file a formal complaint against a  
17 licensee and may temporarily suspend a license simultaneously  
18 with the institution of proceedings under this section,  
19 without a hearing, if the board finds that the evidence  
20 supporting the determination is clear, competent, and  
21 unequivocal and that the continuation of the licensee to  
22 practice would constitute a danger to public health or safety.

23 "§34-13-50.

24 "The Alabama Board of Funeral Service shall  
25 recognize and approve and accept applicants for examination  
26 from only those established embalming schools or colleges  
27 which are recognized by the board. The board shall recognize

1 and approve any embalming school or college approved by the  
2 American Board of Funeral Service Education, and any  
3 additional embalming schools or colleges which, ~~in the~~  
4 ~~judgment of the board,~~ offer courses of study which generally  
5 include the subjects set out in Section 34-13-94. The Alabama  
6 Board of Funeral Service shall not examine or issue an  
7 embalmer's license to any person who does not hold a  
8 certificate of graduation from an embalming school or college  
9 meeting the criteria or standards as defined in this section.  
10 The board may not examine or issue a funeral director's  
11 license to any person who does not hold a certificate of  
12 graduation from an embalming school or college meeting the  
13 criteria or standards defined in this section.

14 "§34-13-51.

15 "(a) The board may, but shall not be required to,  
16 recognize and issue, without examination, and upon payment of  
17 a fee ~~of one hundred dollars (\$100)~~ not in excess of five  
18 hundred dollars (\$500) for each license, a reciprocal license  
19 for the practice of funeral directing or embalming to any  
20 person licensed as a funeral director or embalmer by any  
21 state, if the board makes an individual determination that the  
22 ~~applicant's~~ qualifications of the applicant meet or exceed the  
23 minimum qualifications required for funeral directors or  
24 embalmers in this state and that a written examination of such  
25 applicant would be superfluous.

26 "(b) Applications shall be made on forms prescribed  
27 and furnished by ~~this~~ the board. An applicant holding a

1 funeral director or embalmer license from another state, and  
2 applying for a funeral director or embalmer license in Alabama  
3 shall be considered for licensing by reciprocity.

4 "(c) The board ~~shall~~, at the time of the  
5 application, shall make a reasonable determination that the  
6 applicant is a legal resident of the United States or legally  
7 present in this state. The board reserves the right to require  
8 applicants for reciprocity to submit to a personal interview  
9 or a written examination relating to the law as it pertains to  
10 the regulation of the funeral service profession in Alabama.

11 "(d) The board shall issue a special work permit to  
12 a qualified funeral director or embalmer when the board  
13 determines that the applicant satisfies all requirements for  
14 reciprocity and a fee, not exceeding one hundred dollars  
15 (\$100), is received by the board. A special work permit shall  
16 expire on the date of the next regular board meeting occurring  
17 after issuance.

18 "§34-13-52.

19 "(a) Licenses under this chapter shall be granted to  
20 individuals upon the qualification and successful examination  
21 of the individual applicant and shall specify the name to whom  
22 it is issued. A license granted under this chapter shall be on  
23 public display.

24 "(b) A funeral establishment license issued under  
25 this chapter shall include the name of the funeral  
26 establishment, the name of the managing funeral director, the  
27 name of the managing embalmer, and the certificate of

1 authority license number, if applicable. The license shall be  
2 on public display.

3 "(c) Every license issued under this chapter shall  
4 be signed by the ~~chairman~~ chair and executive secretary ~~of the~~  
5 ~~board~~ and shall be displayed in the place of business or  
6 employment of the licensee.

7 "(d) Any person engaged in the business, profession,  
8 or practice of funeral directing shall do each of the  
9 following:

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

14 "(2) Upon the request of a board member, the  
15 executive secretary, the associate executive secretary, or a  
16 designated and appropriately identified employee of the board,  
17 promptly produce his or her legible and current Alabama  
18 funeral director wallet license certificate.

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

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

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

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

3 "§34-13-53.

4 "(a) Every licensed funeral director, every licensed  
5 embalmer, and every licensed operator shall pay annually a fee  
6 for renewal of his or her license. The renewal fees shall be  
7 set by the board at a rate not to exceed ~~fifty dollars (\$50)~~  
8 one hundred fifty dollars (\$150) for licensed embalmers and  
9 funeral directors and ~~shall not exceed one hundred dollars~~  
10 ~~(\$100)~~ five hundred dollars (\$500) for licensed operators.

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

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

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

26 "§34-13-55.



1           "(a) When a licensee, for any reason, has allowed  
2 his or her license to lapse, the board ~~hereby is given power~~  
3 ~~of reinstatement, in its discretion,~~ may reinstate the license  
4 if application ~~therefor~~ for reinstatement is made within a  
5 period of six months from the lapse and is accompanied by  
6 payment of all penalties and lapsed fees, from the time of the  
7 lapse to date of reinstatement. The penalties to be paid to  
8 the board shall ~~be \$25~~ not exceed one hundred dollars (\$100)  
9 to reinstate licenses which have lapsed.

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

15           "§34-13-56.

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

20           "(1) Conviction of a crime involving moral  
21 turpitude.

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

24           "a. Misrepresentation or fraud in the conduct of the  
25 business or the profession of a funeral director or embalmer.

1            "b. False or misleading advertising as a funeral  
2 director or embalmer or knowingly engaging in any advertising  
3 which is misleading or inaccurate in any material particular.

4            "c. Solicitation of dead human bodies by the  
5 licensee, his or her agents, assistants, or employees, from  
6 medical professionals or clergy, whether the solicitation  
7 occurs after death or while death is impending.

8            "d. Employment by the licensee of a person or  
9 persons to be used for the purpose of obtaining or soliciting  
10 funeral directing or embalming business.

11           "e. Employment directly or indirectly of any  
12 apprentice, agent, assistant, embalmer, employee, or other  
13 person, on part or full time or on commission, for the purpose  
14 of calling upon individuals or institutions where a death has  
15 occurred or is imminent by whose influence dead human bodies  
16 may be turned over to a particular funeral director or  
17 embalmer or funeral establishment, or both.

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

20           "g. Gross immorality.

21           "h. Aiding or abetting an unlicensed person to  
22 practice funeral directing or embalming.

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

1            "j. Solicitation or acceptance by a licensee of any  
2 commission or bonus or rebate in consideration of recommending  
3 or causing a dead human body to be disposed of in any  
4 mausoleum or cemetery.

5            "k. Any violation of this chapter.

6            "l. Any violation of state law or municipal or  
7 county ordinance or regulation affecting the handling,  
8 custody, care, or transportation of dead human bodies.

9            "m. Fraud or misrepresentation in obtaining a  
10 license.

11           "n. Refusing to promptly surrender the custody of a  
12 dead human body, upon the express order and payment for  
13 services rendered of the person lawfully entitled to the  
14 custody thereof.

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

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

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

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

25           "s. Failure to give full cooperation to the board or  
26 its designees, agents, or other representatives in the  
27 performance of official duties of the board. Failure to give

1 full cooperation includes, but is not limited to, any of the  
2 following:

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

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

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

11 "(iv) Not providing reasonable access to the board  
12 or an authorized agent or representative of the board for the  
13 performance of reviews or inspections at facilities or places  
14 utilized by the licensee in the practice of funeral service or  
15 funeral directing or in performing any other activity  
16 regulated by the board.

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

20 "(vi) Failing to cooperate with the board or an  
21 authorized agent or representative of the board in the  
22 investigation of any alleged misconduct or interfering with a  
23 board investigation through the willful misrepresentation of  
24 facts.

25 "(vii) Deceiving or attempting to deceive the board  
26 regarding any matter under investigation, including the  
27 altering or destroying of any records.

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

3           "(ix) Violating any statute, ordinance, or rule of  
4 the state or any board, agency, or political subdivision of  
5 the state affecting the registration of deaths or the  
6 handling, custody, care, or transportation of dead human  
7 bodies.

8           "(x) Violating any statute, ordinance, or rule of  
9 the state or any board, agency, or political subdivision of  
10 the state affecting the registration of deaths or the  
11 handling, custody, care, or transportation of dead human  
12 bodies.

13           "(xi) Demonstrating bad faith, incompetence, or  
14 untrustworthiness or dishonest, fraudulent, or improper  
15 dealing or any other violation of this chapter or any rule  
16 promulgated by the board or promulgated by the Federal Trade  
17 Commission relative to the practice of funeral service or  
18 funeral directing.

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

25           "§34-13-70.

26           "(a) No person shall engage in, or attempt to engage  
27 in, the practice or profession or business of a funeral

1 director unless licensed to do so by the Alabama Board of  
2 Funeral Service. The board hereby is granted authority to  
3 issue license to funeral directors.

4 "(b) Any person desiring to engage in the business,  
5 profession, or practice of funeral director shall make  
6 application to the board and shall accompany his or her  
7 application by a fee to be established by the board, not to  
8 exceed ~~\$100~~ one hundred fifty dollars (\$150), whereupon the  
9 board shall fix the time and place for the examination of the  
10 applicant and shall notify the applicant thereof.

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

16 "§34-13-72.

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

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

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

23 "(3) Has had practical experience as an apprentice  
24 for not less than two years within a period of three  
25 consecutive years, excluding time lost by interruptions caused  
26 by the active duty of the applicant in the military service of  
27 the United States or its allies during war or national

1 emergency, and excluding time lost by interruptions which the  
2 board deems excusable as caused by circumstances beyond the  
3 control of the applicant.

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

7 "(5) Has completed a course of instruction in an  
8 accredited school or college which has been approved by the  
9 board pursuant to Section 34-13-50.

10 "§34-13-73.

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

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

3           "(1) Mortuary management and administration.

4           "(2) Mortuary law.

5           "(3) Basic accounting principles.

6           "(4) Funeral directing.

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

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

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

13           "(e) If the board is satisfied that an applicant has  
14 the requisite qualifications to practice the occupation of  
15 funeral directing, a license shall be issued authorizing the  
16 applicant to practice such occupation until October 1 of that  
17 year, at which time the license may be renewed as prescribed  
18 in this chapter.

19           "§34-13-74.

20           "(a) When a licensed funeral director dies leaving a  
21 licensed funeral business with no licensed funeral director,  
22 the surviving spouse, or a surviving child of legal age, shall  
23 have the right to make application for examination as a  
24 funeral director. The application shall be in writing, on a  
25 form prescribed by the board, and shall state the facts  
26 pertaining to the case. The board may, ~~in its discretion,~~  
27 certify the applicant for the examination prescribed for



1 funeral directors, in which event the requirements with  
2 respect to prior experience and apprenticeship shall be  
3 waived.

4 "(b) When a licensed funeral director dies leaving a  
5 licensed funeral business with no licensed funeral director,  
6 the board may issue a special operating permit to the operator  
7 of such licensed funeral business for a period of 12 months,  
8 with the board having the right to extend the permit an  
9 additional reasonable time to afford such operator the  
10 opportunity of obtaining a licensed funeral director for such  
11 business. The operator shall be required to pay a fee for the  
12 issuance of the special operating permit in ~~the~~ an amount of  
13 ~~\$25~~ not exceeding one hundred dollars (\$100).

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

19 "§34-13-90.

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

25 "(b) All persons shall qualify for examination in  
26 accordance with ~~the provisions of~~ this chapter and shall be  
27 licensed as an embalmer only after due examination by the

1 board and the payment of an examination and license fee to be  
2 established by the board, not to exceed ~~\$100~~ five hundred  
3 dollars (\$500).

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

9 "§34-13-94.

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

12 "(1) Mortuary management and administration.

13 "(2) Legal medicine and toxicology.

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

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

20 "(5) Anatomy and physiology.

21 "(6) Chemistry, organic and inorganic.

22 "(7) Pathology.

23 "(8) Bacteriology.

24 "(9) Sanitation and hygiene.

25 "(10) Public health regulations.

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

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

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

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

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

19           "§34-13-111.

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

26           "(b) The board shall ~~charge~~ set a fee ~~of \$35, not~~  
27 exceeding one hundred fifty dollars (\$150), that shall be in

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

26 "(c) Applications for transfer of a license to  
27 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  
27 people, an office for arrangement conferences with relatives

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

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

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

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

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

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

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

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

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

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

12           "§34-13-114.

13           "(a) An operator of a funeral establishment licensed  
14 under ~~the provision~~ subsections (a) and (b) of Section  
15 34-13-113 and who desires to change the name of the  
16 establishment may have his or her license reissued ~~to him or~~  
17 her, in the changed name, upon application to the board and  
18 payment of a fee ~~of \$25~~ not exceeding seventy-five dollars  
19 (\$75).

20           "(b) An operator of a mortuary service licensed  
21 under subsections (c) and (d) of Section 34-13-113 who desires  
22 to change the name of the mortuary service may have his or her  
23 license reissued, in the changed name, upon application to the  
24 board and payment of a fee set by the board.

25           "§34-13-115.

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

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

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

20           "§34-13-116.

21           "Any person, firm, partnership, society, group, or  
22 corporation who has control of a funeral home, mortuary,  
23 chapel, ~~or funeral establishment, as defined in this law, or~~  
24 mortuary service and fails to register same according to ~~the~~  
25 ~~provisions of~~ this chapter, upon conviction, may be fined not  
26 less than ~~\$300~~ five hundred dollars (\$500) nor more than ~~\$500~~  
27 two thousand five hundred dollars (\$2,500) for each violation,



1 and each day that the funeral home, mortuary, chapel, or funeral  
2 establishment, or mortuary service is operated shall  
3 be deemed to be a separate and distinct violation of this  
4 chapter.

5 "§34-13-120.

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

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

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

19 "(d) The board shall inspect the records and  
20 premises of any funeral establishment operating a crematory.  
21 In making inspections, the board shall have access to all  
22 records, the crematory building, the cremation chambers or  
23 furnaces, and the storage areas for human remains before and  
24 after cremation, during regular office hours or the hours the  
25 crematory is in operation. No prior notification of the  
26 inspection is required to be given to the funeral  
27 establishment. If any funeral establishment performing

1 cremation services fails to allow an inspection or any part  
2 thereof, it shall be grounds for the suspension or revocation  
3 of a license or other disciplinary action against the  
4 licensee, as the board may deem reasonable and necessary to  
5 the extent of the law. The board shall conduct annually a  
6 minimum of one unannounced inspection of each licensed funeral  
7 establishment performing cremation services.

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

16 "(f) Each funeral establishment performing cremation  
17 services shall report to the board any maintenance or  
18 inspections performed ~~by the manufacturer~~ within 30 days of  
19 the maintenance or inspection.

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

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

3                   "§34-13-130.

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

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

10           Section 2. All laws or parts of laws which conflict  
11 with this act are repealed and specifically Section 34-13-28,  
12 Code of Alabama 1975, providing for the reporting of receipts  
13 and disbursements of the board to the Governor and the  
14 Legislature, and Article 4, consisting of Sections 34-13-150,  
15 34-13-151, and 34-13-152, of Chapter 13, Title 34, Code of  
16 Alabama 1975, relating to donor eye enucleation licenses, are  
17 repealed.

18           Section 3. The provisions of this act are severable.  
19 If any part of this act is declared invalid or  
20 unconstitutional, that declaration shall not affect the part  
21 which remains.

22           Section 4. This act shall become effective October  
23 1, 2011, following its passage and approval by the Governor,  
24 or its otherwise becoming law.