

1 SB535
2 118798-1
3 By Senator Little (Z)
4 RFD: Judiciary
5 First Read: 11-MAR-10

2
3
4
5
6
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 increase maximum annual
27 license renewal fees for funeral directors and

1 embalmers from \$50 to \$100, for operators from \$300
2 to \$500, and would increase the maximum
3 reinstatement fee from \$25 to \$100.

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

9 This bill would increase the maximum initial
10 application fee for licensure as a funeral director
11 from \$100 to \$200 and the maximum examination fee
12 from \$25 to \$50 above the actual cost of
13 administering the examination, and would specify
14 the subjects included on the examination and what
15 constitutes a passing grade on the examination.

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

19 This bill would increase the maximum initial
20 application fee for licensure as an embalmer from
21 \$100 to \$200 and the maximum examination fee from
22 \$25 to \$50 above the actual cost of administering
23 the examination.

24 This bill would increase the initial funeral
25 establishment license inspection fee from \$35 to a
26 maximum of \$150, the reinspection fee from \$75 to a
27 maximum of \$250, the annual inspection fee from \$35

1 to a maximum of \$125, and the location transfer fee
2 from \$25 to a maximum of \$100.

3 This bill would increase the maximum initial
4 application fee for a license to operate a funeral
5 establishment from \$300 to a maximum of \$500 and
6 would provide further for the contents of the
7 funeral establishment.

8 This bill would require and provide a
9 process for completing an application to operate a
10 mortuary service, would provide a maximum
11 application fee of \$500, and would provide for the
12 contents of and inspection of the premises of the
13 mortuary service applicant.

14 This bill would increase the fee for
15 changing the name of a funeral establishment from
16 \$25 to a maximum of \$50 and would authorize the
17 board to establish a fee for any mortuary service
18 making application to change its name.

19 This bill would authorize the board to
20 revoke, suspend, or refuse to renew the license of
21 a mortuary service and would increase the fine
22 imposed upon any person, firm, partnership,
23 society, group, or corporation failing to register
24 a funeral home, mortuary, chapel, funeral
25 establishment, or mortuary service from a range of
26 \$300 to \$500 to a range of \$500 to \$2,500 for each
27 violation.

1 This bill would specifically prohibit any
2 crematory facility licensed by the board from
3 cremating deceased animals.

4 This bill would also repeal the laws
5 providing for donor eye enucleation licenses.

6
7 A BILL
8 TO BE ENTITLED
9 AN ACT

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

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

1 or mortuary service; to authorize the board to revoke,
2 suspend, or refuse to renew the license of a mortuary service;
3 to increase the fine imposed upon any person, firm,
4 partnership, society, group, or corporation failing to
5 register a funeral home, mortuary, chapel, funeral
6 establishment, or mortuary service; to prohibit any crematory
7 facility from cremating deceased animals; to repeal Article 4,
8 consisting of Sections 34-13-150, 34-13-151, and 34-13-152, of
9 Chapter 13, Title 34, Code of Alabama 1975, relating to donor
10 eye enucleation licenses; and to specify an effective date.

11 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

12 Section 1. Sections 34-13-1, 34-13-7, 34-13-9,
13 34-13-11, 34-13-12, 34-13-20, 34-13-22, 34-13-23, 34-13-26,
14 34-13-50, 34-13-51, 34-13-53, 34-13-55, 34-13-56, 34-13-70,
15 34-13-72, 34-13-73, 34-13-74, 34-13-90, 34-13-111, 34-13-113,
16 34-13-114, 34-13-115, 34-13-116, and 34-13-120 of the Code of
17 Alabama 1975, are amended to read as follows:

18 "§34-13-1.

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

21 "(1) ACCREDITED SCHOOL or COLLEGE OF MORTUARY
22 SCIENCE. A school or college approved by the Alabama Board of
23 Funeral Service and which maintains a course of instruction of
24 not less than 48 calendar weeks or four academic quarters or
25 college terms and which gives a course of instruction in the
26 fundamental subjects ~~as set forth~~ including, but not limited
27 to, the following:

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

19 "(2) AMERICAN BOARD OF FUNERAL SERVICE EDUCATION.
20 That funeral service educational organization which is an
21 agency granted official recognition by the United States
22 Secretary of Education and which is composed of members
23 representing the American Association of College of Mortuary
24 Science, the Conference of Funeral Service Examining Board of
25 the United States, Inc., the National Association of Colleges
26 of Mortuary Science, and the University Mortuary Science
27 Education Association and which has as its object the

1 furtherance of education in the field of funeral service and
2 in fields necessary to, or allied with, the field of funeral
3 service, and further to formulate standards of funeral service
4 education and to grant accreditation to qualified schools and
5 colleges of mortuary science and to do all things incidental
6 to the foregoing.

7 "(3) APPRENTICE EMBALMER or EMBALMER'S APPRENTICE.
8 Any person engaged in the study of the art of embalming under
9 the instructions and supervision of a licensed embalmer
10 practicing in this state.

11 "(4) APPRENTICE FUNERAL DIRECTOR or FUNERAL
12 DIRECTOR'S APPRENTICE. Any person operating under or in
13 association with a funeral director for the purpose of
14 learning the business or profession of funeral director, to
15 the end that he or she may become licensed under ~~the~~
16 ~~provisions of~~ this chapter.

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

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

22 "(7) CEMETERY. A place dedicated to and used or
23 intended to be used for the permanent interment of human
24 remains. It may be either land or earth interment; a mausoleum
25 for vault or crypt entombment; a structure or place used or
26 intended to be used for the interment of cremated remains;
27 cryogenic storage; or any combination of one or more thereof.

1 "(8) CEMETERY AUTHORITY. Any individual, person,
2 firm, profit or nonprofit corporation, trustee, partnership,
3 society, religious society, church, association or
4 denomination, municipality, or other group or entity, however
5 organized, insofar as they or any of them may now or hereafter
6 establish, own, operate, lease, control, or manage one or more
7 cemeteries, burial parks, mausoleums, columbariums, or any
8 combination or variation thereof, or hold lands or structures
9 for burial grounds or burial purposes in this state and engage
10 in the operation of a cemetery, including any one or more of
11 the following: The care and maintenance of a cemetery; the
12 interment, entombment, and memorialization of the human dead
13 in a cemetery; the sale, installation, care, maintenance, or
14 any combination thereof, with respect of monuments, markers,
15 foundations, memorials, burial vaults, urns, crypts,
16 mausoleums, columbariums, flower vases, floral arrangements,
17 and other cemetery accessories, for installation or use within
18 a cemetery; and the supervision and conduct of funeral and
19 burial services within the bounds of the cemetery. It is the
20 legislative intent of this chapter that a cemetery authority,
21 to the extent that it engages in any of the activities
22 described in this subdivision, shall not be affected by this
23 chapter and shall not be deemed to have entered into or
24 engaged in the practice of funeral directing, embalming, or
25 funeral establishment operation.

26 "(9) CREMATION. The technical process, using heat
27 and flame, that reduces human remains to bone fragments. The

1 reduction takes place through heat and evaporation. Cremation
2 shall include the processing, and may include the
3 pulverization, of the bone fragments.

4 "(10) CREMATIONIST. A person who performs the
5 procedure of cremation.

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

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

14 "(13) EMBALMING. The practice, science, or
15 profession, as commonly practiced, of preserving,
16 disinfecting, and preparing by application of chemicals or
17 other effectual methods, human dead for burial, cremation, or
18 transportation.

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

1 ~~or term~~ terms "funeral director," "undertaker," "mortician,"
2 "funeral parlor," or any other ~~word or~~ term from which can be
3 implied the practice of funeral directing; or the holding out
4 to the public that one is a funeral director or engaged in a
5 practice described in this subdivision.

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

1 does not include any cemetery authority ~~as defined in this~~
2 ~~section.~~

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

15 "a. A preparation room equipped with a sanitary
16 floor and necessary drainage and ventilation and containing
17 necessary approved tables, instruments, and supplies for the
18 preparation and embalming of dead human bodies for burial,
19 cremation, and transportation.

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

24 "c. At least one ~~motor vehicle~~ funeral coach or
25 hearse properly licensed and equipped for transporting human
26 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 50
6 people.

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

9 "(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 "(18) MORTUARY SCIENCE. The scientific,
18 professional, and practical aspects, with due consideration
19 given to accepted practices, covering the care, preparation
20 for burial, or transportation of dead human bodies, which
21 shall include the preservation and sanitation of the bodies
22 and restorative art and those aspects related to public
23 health, jurisprudence, and good business administration.

24 "(19) MORTUARY SERVICE. A location with a specific
25 street address where embalming or cremation, or both, is
26 practiced for a licensed funeral establishment and where no
27 services or merchandise is sold directly or at retail to the

1 public. A mortuary service shall consist of and maintain all
2 of the following facilities:

3 "a. A preparation room equipped with a sanitary
4 floor and necessary drainage and ventilation and containing
5 necessary approved tables, instruments, and supplies for the
6 preparation and embalming of dead human bodies for burial,
7 cremation, and transportation.

8 "b. At least one motor vehicle properly licensed and
9 equipped for transporting human remains in a casket or urn.

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

12 "~~(19)~~ (20) OPERATOR. A person, corporation, firm,
13 legal representative, or other organization owning or
14 operating a funeral establishment.

15 "~~(20)~~ (21) PRACTICAL EMBALMERS. Any person who has
16 been actively and continuously engaged or employed in the
17 practice of embalming under the supervision of a licensed
18 embalmer for four consecutive years immediately preceding May
19 1, 1975, and has been issued a license as a practical embalmer
20 under the grandfather provisions of this chapter.

21 "~~(21)~~ (22) PROCESSING or PULVERIZATION. The
22 reduction of identifiable bone fragments after the completion
23 of the cremation process to unidentifiable bone fragments or
24 granulated particles by manual or mechanical means.

25 "~~(22)~~ (23) RETORT. An enclosed space within which
26 the cremation process takes place.

1 "~~(23)~~ (24) TEMPORARY CONTAINER. A receptacle for
2 cremated remains, usually composed of cardboard, plastic, or
3 similar material, that can be closed in a manner that prevents
4 the leakage or spillage of the cremated remains or the
5 entrance of foreign material, and is a single container of
6 sufficient size to hold the cremated remains until an urn is
7 acquired or the cremated remains are scattered or buried.

8 "~~(24)~~ (25) URN. A receptacle designed to encase
9 cremated remains.

10 "(b) Nothing in this chapter shall require a funeral
11 director or funeral establishment to have or provide a chapel
12 or to restrict, ~~in any manner,~~ the conduct of funeral services
13 from a church or chapel.

14 "(c) Nothing contained in the definition of funeral
15 directing, or in any other provision of this chapter, shall ~~be~~
16 ~~deemed or construed to~~ be applicable to, or ~~to~~ regulate or
17 restrict, ~~in any manner,~~ cemetery authorities in the conduct
18 of activities of a cemetery authority ~~as defined in this~~
19 ~~chapter;~~ or ~~to~~ be applicable to, or ~~to~~ regulate or restrict,
20 ~~in any manner,~~ the carrying on by any cemetery authority of
21 any ~~and all~~ activities, functions, practices, and services
22 which may now or hereafter ~~(i)~~ (1) constitute any part of the
23 operation or management of a cemetery or of the property of a
24 cemetery ~~as defined in this chapter~~ or ~~(ii)~~ (2) otherwise
25 consist of the interment or entombment of the human dead or
26 memorialization of the human dead in any manner within a
27 cemetery property.

1 "§34-13-7.

2 "~~Each and every~~ Any person who embezzles, abstracts,
3 or willfully misapplies any of the moneys, funds, security, or
4 credit of the ~~Alabama Board of Funeral Service~~ board or who
5 misuses any of the funds or fees so collected, by virtue of
6 this chapter, and any person who, with like intent, aids or
7 abets any person in violation of this chapter, ~~or any portion~~
8 ~~thereof,~~ shall be ~~deemed~~ guilty of a felony and, upon
9 conviction ~~thereof,~~ shall be punished by a fine of not less
10 than ~~\$500.00~~ five hundred dollars (\$500) nor exceeding
11 ~~\$5,000.00~~ five thousand dollars (\$5,000) and imprisonment in
12 the penitentiary for a period of not less than one year and
13 not more than five years, and the principal offenders and
14 those aiding and abetting same may be charged in the same
15 count, and separate offenses may be charged, in separate
16 counts, in the same indictment and tried together. Any person
17 found guilty of offering or of accepting a bribe whereupon any
18 person is illegally licensed to practice embalming, to
19 practice funeral directing, or to operate a funeral
20 establishment in this state shall be punished by a fine of not
21 less than ~~\$500.00~~ five hundred dollars (\$500) nor exceeding
22 ten thousand dollars (\$10,000) and may be imprisoned in the
23 penitentiary for a period of one to three years, and the
24 principal offenders and those aiding and abetting same may be
25 charged in the same count and separate offenses may be charged
26 in separate counts in the same indictment and tried together.

27 "§34-13-9.

1 ~~"Each funeral home shall have a card or brochure in~~
2 ~~each casket stating the price of the funeral service using~~
3 ~~said casket and listing the services and other merchandise~~
4 ~~included in the price. Where there are separate prices for the~~
5 ~~casket, the professional services, the use of facilities and~~
6 ~~the use of equipment, such card shall indicate the price of~~
7 ~~each such item, except in those instances such as unknown~~
8 ~~transportation costs and similar items, which services must be~~
9 ~~stated with the price to be fixed upon billing. When the~~
10 ~~arrangers decide on the type of service desired, the firm must~~
11 ~~provide or cause to be provided to the person or persons~~
12 ~~making the arrangements, at the time such arrangements are~~
13 ~~completed and prior to the time of rendering the service or~~
14 ~~providing the merchandise, a written statement showing (1) the~~
15 ~~price of the service that the person or persons have selected~~
16 ~~and what is included therein; (2) the price of each of the~~
17 ~~supplemental items of service and merchandise requested; (3)~~
18 ~~the amount involved for each of the items for which the~~
19 ~~funeral service home will advance money as an accommodation to~~
20 ~~the family; and (4) the method of payment. No additional~~
21 ~~charges shall be made without approval of the arrangers except~~
22 ~~as stated in this section Funeral service, cemetery service,~~
23 ~~and funeral merchandise pricing shall conform to rules~~
24 ~~established by the Federal Trade Commission.~~

25 ~~"§34-13-11.~~

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

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

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

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

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

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

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

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

26 ~~"(7) The person in the next degree of kinship under~~
27 ~~the laws of descent and distribution to inherit the decedent's~~

1 estate. If there is more than one person of the same degree,
2 any such person may serve as the authorizing agent.

3 ~~"(8) In the case of indigents or any other~~
4 ~~individuals whose final disposition is the responsibility of~~
5 ~~the state or any of its subdivisions or agencies, a public~~
6 ~~administrator, medical examiner, coroner, or any other public~~
7 ~~official charged with arranging the final disposition shall~~
8 ~~serve as the authorizing agent in the absence or refusal of~~
9 ~~any person described in subdivisions (1) to (7), inclusive.~~

10 ~~"(9) In the absence or refusal of any person~~
11 ~~described in subdivisions (1) to (7), inclusive, any person~~
12 ~~willing to assume the responsibility as authorizing agent.~~

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

21 "(1) The cancellation or revision is ordered by a
22 person designated by the decedent in the preneed contract as
23 authorized.

24 "(2) The resources set aside to fund the preneed
25 contract are insufficient under the terms of the preneed
26 contract to carry out the disposition directions and funeral
27 prearrangements contained in the preneed contract.

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

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

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

15 "State of Alabama

16 "County of _____

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

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

27 "_____ (signature of notary public)"

1 "(2) The surviving spouse.

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

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

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

22 "(6) The surviving grandparent of the decedent or,
23 if there is more than one surviving grandparent, a majority of
24 the surviving grandparents. Less than a majority of the
25 surviving grandparents may be vested with the rights and
26 duties of this section if reasonable efforts have been made to
27 notify all surviving grandparents of the instructions and a

1 majority of the surviving grandparents are not aware of any
2 opposition to the instructions.

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

5 "(8) The personal representative of the estate of
6 the decedent.

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

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

17 "(11) Any other person willing to assume the
18 responsibility of acting on and arranging the final
19 disposition of the remains of the decedent, including the
20 funeral director that has custody of the body, in the absence
21 of any person specified in subdivisions (1) to (10),
22 inclusive. The person shall attest in writing that good faith
23 efforts to contact the persons specified in subdivisions (1)
24 to (10), inclusive, have been unsuccessful.

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

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

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

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

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

21 "(d) Notwithstanding subsections (b) and (c), the
22 judge of probate of the county of residence of the decedent
23 may award the right of disposition to the person the judge of
24 probate determines to be the most fit and appropriate to
25 manage the right of disposition, and may make decisions
26 regarding the remains of the decedent if the persons
27 possessing the right of disposition do not agree. If two or

1 more persons who possess an equal right of disposition are not
2 able by majority vote to agree upon the disposition of the
3 remains of the decedent, any of those persons or the funeral
4 establishment with custody of the remains may file a petition
5 asking the judge of probate to make a determination in the
6 matter. In making such a determination, the judge of probate
7 shall consider all of the following:

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

10 "(2) The degree of the personal relationship between
11 the decedent and each person possessing a right of
12 disposition.

13 "(3) The financial ability and willingness of each
14 person possessing a right of disposition to pay the cost of
15 the funeral and disposition arrangements.

16 "(4) The convenience and needs of other family
17 members and friends who wish to pay their respects and the
18 degree to which the funeral arrangements would allow maximum
19 participation by all who wish to pay their respects.

20 "(5) The desires of the decedent.

21 "(e) In the event of a dispute regarding the right
22 of disposition, a funeral establishment may not be held liable
23 for refusing to accept remains, for interring, or for
24 otherwise disposing of the remains of a decedent or for
25 completing arrangements for the final disposition of remains
26 unless and until the funeral establishment receives an order
27 from the judge of probate, or other written agreement signed

1 by all persons possessing a right of disposition, regarding
2 the final disposition of the remains. If a funeral
3 establishment retains remains for final disposition during a
4 disagreement, the funeral establishment may embalm or
5 refrigerate and shelter the body, or both, to preserve the
6 body pending the final decision of the judge of probate. The
7 funeral establishment may add the cost of embalming or
8 refrigeration and sheltering, or both, to the final
9 disposition cost. If a funeral establishment files a petition
10 pursuant to subsection (d), the funeral establishment may add
11 any associated legal fees and court costs to the cost of final
12 disposition. This section may not be construed to require or
13 impose a duty upon a funeral establishment to bring an action
14 pursuant to this section. A funeral establishment and its
15 employees may not be held criminally or civilly liable for not
16 bringing an action pursuant to this section.

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

27 "§34-13-12.

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

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

23 ~~"(a) Any person signing a funeral service agreement,~~
24 ~~cremation authorization form, or any other authorization for~~
25 ~~disposition by his or her signature shall attest to the~~
26 ~~truthfulness of any facts set forth in the document including,~~
27 ~~but not limited to, the identity of the decedent whose remains~~

1 are to be buried, cremated, or otherwise disposed of and the
2 authority of the person to order the disposition. A funeral
3 establishment may rely on a funeral service agreement,
4 contract, or authorization in carrying out the instructions of
5 the person the funeral establishment reasonably believes to
6 hold the right of disposition. A funeral establishment is not
7 responsible for contacting or independently investigating the
8 existence of any next-of-kin or relative of a decedent. If
9 there is more than one person in a class with equal priority
10 and the funeral establishment has no knowledge of any
11 objection by any other member of that class, the funeral
12 establishment may rely upon and act according to the
13 instructions of the first person in the class to make funeral
14 and disposition arrangements.

15 "(b) No funeral establishment or funeral director
16 who relies in good faith upon the instructions of a person who
17 claims a right of disposition shall be subject to criminal or
18 civil liability, or be subject to disciplinary action, for
19 carrying out the disposition of the remains in accordance with
20 those instructions.

21 "§34-13-20.

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

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

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

1 the board shall be constituted so that the terms of three
2 members of the board shall end December 31, 1976, and the
3 terms of four members shall end December 31, 1977. The terms
4 of the members of the State Embalming Board, who become
5 members of the Alabama Board of Funeral Service under this
6 chapter, shall expire December 31, 1976, unless there are more
7 than three such members, in which event, the Governor shall
8 designate which of the three members of the State Embalming
9 Board shall serve for terms ending December 31, 1976, and
10 which shall serve for terms ending December 31, 1977.

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

20 "(d) The successors to the original members of the
21 board shall be selected for terms of two years. After the
22 terms of the original members of the board, four of the
23 members serving on the board shall be practicing and licensed
24 embalmers in Alabama for the last 10 consecutive years
25 immediately preceding their appointment and shall be licensed
26 embalmers and funeral directors in this state under this
27 chapter. Three of the members shall have been actively engaged

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

1 "(e) Any board member who is elected to the national
2 board ~~shall~~, upon his or her election, shall begin to serve
3 the state board in an ex officio capacity only, for the
4 duration of his or her national board term. A member, properly
5 qualified, shall be selected in the same manner provided for
6 appointment to the state board and shall serve the remainder
7 of the term of the member elected to the national board.

8 "§34-13-22.

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

1 "§34-13-23.

2 "(a) (1) The board appointed under ~~the provisions of~~
3 this chapter and each successor thereto is authorized to
4 select from its own membership a ~~chairman~~ chair and to adopt
5 and promulgate such rules and regulations for the transaction
6 of its business and for the betterment and promotion of the
7 standards of service and practice to be followed in the
8 funeral service profession in the State of Alabama as it may
9 deem expedient and consistent with the laws of this state and
10 for the public good.

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

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

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

25 "(c) Board members shall be reimbursed for their
26 necessary traveling expenses and the necessary expenses
27 incident to their attendance upon the business of the board,

1 and, in addition thereto, they shall receive the sum of ~~\$50~~
2 fifty dollars (\$50) per diem for every day not to exceed ~~10~~ 20
3 days per year actually spent by the member upon the business
4 of the board. The board may employ an executive secretary and
5 associate executive secretary who shall each receive and be
6 paid an annual salary to be fixed by the board, but not to
7 exceed the salary level established and paid to cabinet
8 officers in the state government. The salary shall be paid on
9 a monthly basis. In addition, the executive secretary and
10 associate executive secretary shall receive his or her
11 necessary traveling and other incidental expenses as are
12 incurred in the performance of duties, and all expenses, per
13 diem, and compensation shall be paid out of the receipts of
14 the board. At no time shall the operation of the board be an
15 expense to the state, and at no time shall expenses of the
16 board exceed the receipts ~~hereof~~ of the board.

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

26 "(e) The executive secretary ~~of the board~~ shall keep
27 a record in which shall be registered the name and business

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

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

17 "(g) The executive secretary shall serve at the
18 pleasure of the board and shall perform duties as may be
19 necessary for the proper functioning of the board as the board
20 may determine or as may be prescribed in this chapter. During
21 and for three years after his or her employment, neither the
22 executive secretary nor any member of his or her family within
23 the third degree shall be employed by any funeral
24 establishment.

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

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

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

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

25 "~~(j)~~ (k) The board may employ clerical assistants
26 and employees or other help as may be necessary to carry out
27 ~~the provisions of~~ this chapter, and the terms and conditions

1 of employment shall be determined by the board. The board may
2 establish and equip an office from which ~~the provisions of~~
3 this chapter may be carried out.

4 "§34-13-26.

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

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

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

1 her from the duty of compliance with the valid rules,
2 regulations, l or orders lawfully issued.

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

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

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

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

1 place fixed by the board, regarding the charges. If a hearing
2 is held, the board shall order the licensee to appear and show
3 cause why he or she should not be disciplined for a violation
4 of this chapter.

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

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

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

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

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

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

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

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

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

26 "§34-13-50.

1 "The Alabama Board of Funeral Service shall
2 recognize and approve and accept applicants for examination
3 from only those established embalming schools or colleges
4 which are recognized by the board. The board shall recognize
5 and approve any embalming school or college approved by the
6 American Board of Funeral Service Education, and any
7 additional embalming schools or colleges which, ~~in the~~
8 ~~judgment of the board,~~ offer courses of study which generally
9 include the subjects set out in Section 34-13-94. The Alabama
10 Board of Funeral Service shall not examine or issue an
11 embalmer's license to any person who does not hold a
12 certificate of graduation from an embalming school or college
13 meeting the criteria or standards ~~as~~ 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 "§34-13-53.

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

26 "(b) All licenses granted under this chapter shall
27 expire on October 1, following their issuance or renewal, and

1 shall become invalid unless renewed as provided in this
2 section. There shall be no proration of licenses.

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

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

14 "\$34-13-55.

15 "(a) When a licensee, for any reason, has allowed
16 his or her license to lapse, the board ~~hereby is given power~~
17 ~~of reinstatement, in its discretion, may reinstate the license~~
18 if application ~~therefor~~ for reinstatement is made within a
19 period of six months from the lapse and is accompanied by
20 payment of all penalties and lapsed fees, from the time of the
21 lapse to date of reinstatement. The penalties to be paid to
22 the board shall ~~be \$25.00~~ not exceed one hundred dollars
23 (\$100) to reinstate licenses which have lapsed.

24 "(b) After ~~said~~ the six-month period has elapsed,
25 such license may be reinstated only by complying with the
26 provisions ~~hereinabove~~ relating to the issuance of an original

1 license in addition to payment of all lapsed fees and
2 penalties.

3 "§34-13-56.

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

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

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

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

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

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

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

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

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

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

6 "g. Gross immorality.

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

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

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

17 "k. Any violation of this chapter.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

11 "§34-13-70.

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

17 "(b) Any person desiring to engage in the business,
18 profession, or practice of funeral director shall make
19 application to the board and shall accompany his or her
20 application by a fee to be established by the board, not to
21 exceed ~~\$100.00~~ one hundred fifty dollars (\$150), whereupon the
22 board shall fix the time and place for the examination of the
23 applicant and shall notify the applicant thereof.

24 "(c) In addition, the board shall establish and
25 charge a reasonable examination fee, based on actual costs,
26 for each applicant who sits for an examination, ~~however, in.~~
27 In no event shall the fee exceed ~~\$25.00~~ fifty dollars (\$50)

1 above the actual cost of preparing and administering such
2 exam.

3 "§34-13-72.

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

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

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

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

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

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

24 "§34-13-73.

25 "(a) The applicant for a funeral director's license,
26 before the application is granted, shall successfully pass an
27 examination upon, but not limited to, the following subjects:

1 Funeral directing, the manners in which death may be
2 determined, the laws governing the preparation and disposal of
3 human dead bodies and the shipment of bodies dying from
4 infectious or contagious diseases, and local health and
5 sanitary ordinances in relation to funeral directing. The
6 examination shall be prepared and graded as prescribed by rule
7 of the board. The board may review and adopt, in whole or in
8 part, examination questions, forms, examinations, and passing
9 criteria proposed by the American Board of Funeral Service
10 Education, or a successor organization, and may use the
11 uniform nationwide conditions of the International Conference
12 of Funeral Service Examining Boards, or other organization
13 approved by the board.

14 "(b) The board shall examine applicants for a
15 funeral director's license, pursuant to an oral or written
16 examination, in all of the following subjects:

17 "(1) Mortuary management and administration.

18 "(2) Mortuary law.

19 "(3) Basic computer skills.

20 "(4) Funeral directing.

21 "(5) Other courses of instruction in fundamental
22 subjects as may be prescribed by the board and covered in an
23 examination study guide furnished by the board to each
24 applicant.

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

1 "(d) To constitute a passing grade, an applicant
2 shall earn an average score of at least 60 percent on each
3 subject. An applicant who earns less than 60 percent on any
4 one subject may not receive a passing grade for the
5 examination.

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

12 "§34-13-74.

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

24 "(b) When a licensed funeral director dies leaving a
25 licensed funeral business with no licensed funeral director,
26 the board may issue a special operating permit to the operator
27 of such licensed funeral business for a period of 12 months,

1 with the board having the right to extend ~~said the~~ permit an
2 additional reasonable time to afford such operator the
3 opportunity of obtaining a licensed funeral director for such
4 business. The operator shall be required to pay a fee for the
5 issuance of ~~said the~~ special operating permit in ~~the an~~ amount
6 of ~~\$25.00~~ not exceeding one hundred dollars (\$100).

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

12 "\$34-13-90.

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

18 "(b) All persons shall qualify for examination in
19 accordance with ~~the provisions of~~ this chapter and shall be
20 licensed as an embalmer only after due examination by the
21 board and the payment of an examination and license fee to be
22 established by the board, not to exceed ~~\$100.00~~ five hundred
23 dollars (\$500).

24 "(c) In addition, the board shall establish and
25 charge a reasonable examination fee, based on actual costs,
26 for each applicant who sits for an examination, ~~however, in.~~
27 In no event shall the fee exceed \$25.00 fifty dollars (\$50)

1 above the actual cost of preparing and administering such
2 exam.

3 "§34-13-111.

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

10 "(b) The board shall ~~charge set~~ a fee of ~~\$35.00, not~~
11 exceeding one hundred fifty dollars (\$150), that shall be in
12 addition to the license fee for the first inspection of any
13 funeral establishment seeking a license under Section 34-13-72
14 made for the purpose of determining whether such funeral
15 establishment has fulfilled the requirements for licensure
16 ~~hereunder pursuant to this chapter~~. The board shall ~~charge set~~
17 a fee of ~~\$75.00, not exceeding one hundred fifty dollars~~
18 (\$150), for each reinspection necessitated by failure of any
19 funeral establishment to pass such first inspection. All
20 funeral establishments and branches shall be inspected by the
21 board, or its representatives, at least once annually, with an
22 inspection fee of ~~\$35.00~~ not more than one hundred dollars
23 (\$100), and shall meet and conform to ~~the provisions of this~~
24 chapter and to such other lawful standards and requirements as
25 may be determined by rule of the board in furtherance of ~~the~~
26 ~~provisions of this chapter;~~ and, for failure to do so, the

1 board may revoke such license in accordance with the procedure
2 set forth in this chapter.

3 "(c) Applications for transfer of a license to
4 another location in the same county shall be made upon blanks
5 furnished by the board and shall be accompanied by a fee of
6 ~~\$25.00~~ not more than seventy-five dollars (\$75). The fee for a
7 new branch or location for a funeral establishment shall be
8 \$250.00. Any change in ownership ~~must~~ shall be immediately
9 reported to the board.

10 "§34-13-113.

11 "(a) Application for a license to operate a funeral
12 establishment shall be made in writing on a form provided by
13 the board. The application shall be verified by the applicant
14 or, if the applicant is a corporation, firm, or other
15 organization, by an officer or member thereof, and shall be
16 accompanied by an application fee ~~to be~~ established by the
17 board, ~~not to exceed \$300.00~~ five hundred dollars (\$500). The
18 application shall disclose all of the following:

19 "(1) The name and address of the establishment, ~~and~~

20 "(2) That the establishment is operated by a
21 licensed funeral director and a licensed embalmer or a person
22 licensed both as a funeral director and embalmer, ~~and~~

23 "(3) A description of the ~~establishment's~~ buildings,
24 equipment, ~~and~~ facilities, of the establishment.

25 "(4) That the establishment has a sanitary, properly
26 equipped embalming room, ~~a place for the conduct of funerals~~
27 ~~and a casket selection room stocked with an average selection~~

1 of caskets; and a room suitable for public viewing or other
2 funeral services that is able to accommodate a minimum of 50
3 people, an office for arrangement conferences with relatives,
4 and a display room containing a stock of adult caskets and
5 funeral supplies displayed in full size, cuts, or photos. At
6 no time shall less than eight different adult size caskets be
7 on display and at least one properly licensed funeral coach or
8 hearse equipped for transporting human remains in a casket or
9 urn be on the premises.

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

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

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

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

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

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

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

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

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

15 "§34-13-114.

16 "(a) An operator of a funeral establishment licensed
17 under ~~the provision~~ subsections (a) and (b) of Section
18 34-13-113 and who desires to change the name of the
19 establishment may have his or her license reissued ~~to him~~, in
20 the changed name, upon application to the board and payment of
21 a fee ~~of \$25.00~~ not exceeding seventy-five dollars (\$75).

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

27 "§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 ~~\$300.00~~ five hundred dollars (\$500) nor more than
27 ~~\$500.00~~ two thousand five hundred dollars (\$2,500) for each

1 violation, and each day that ~~said~~ the funeral home, mortuary,
2 chapel ~~or~~ funeral establishment, or mortuary service is
3 operated shall be deemed to be a separate and distinct
4 violation of this 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
2 shall be used for the cremation of deceased animals."

3 Section 2. All laws or parts of laws which conflict
4 with this act are repealed and specifically Article 4,
5 consisting of Sections 34-13-150, 34-13-151, and 34-13-152, of
6 Chapter 13, Title 34, Code of Alabama 1975, relating to donor
7 eye enucleation licenses, is repealed.

8 Section 3. This act shall become effective October
9 1, 2010, following its passage and approval by the Governor,
10 or its otherwise becoming law.