

1 SB211
2 156168-1
3 By Senator Keahey
4 RFD: Judiciary
5 First Read: 15-JAN-14

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

12 This bill would provide further for the
13 definitions of conviction, gross immorality, and
14 moral turpitude.

15 This bill would authorize the board to
16 provide notice to applicants and licensees
17 regarding statutory law, rules of the board,
18 renewal dates and fees, and license examination
19 dates and times, in electronic format.

20 This bill would require each funeral
21 establishment to have the casket price clearly
22 noted on each full-size and cut casket and on each
23 photograph and electronic image of a casket.

24 This bill would allow a board member to
25 serve past the end of his or her term until his or
26 her successor is appointed.

1 This bill would delete the requirement that
2 quarterly meetings be held for the purpose of
3 examining applicants and would authorize the board
4 to delegate the responsibility of administering the
5 licensure examination.

6 This bill would authorize independent
7 contractors of the board to enter funeral
8 establishments for the purpose of inspection.

9 This bill would require that appeals be
10 taken within 30 days after an order is signed by
11 the board and would require the court to remand the
12 case under certain circumstances.

13 This bill would provide further for
14 instances where the board may refuse to grant,
15 refuse to renew, or suspend or revoke the license
16 of a licensee.

17 This bill would provide further for the
18 qualifications and interviewing of an applicant for
19 license as a funeral director and embalmer.

20 This bill would also require the change in
21 ownership of a funeral establishment to be
22 immediately reported to the board, and would
23 specify a fee.

24 Amendment 621 of the Constitution of Alabama
25 of 1901, now appearing as Section 111.05 of the
26 Official Recompilation of the Constitution of
27 Alabama of 1901, as amended, prohibits a general

1 law whose purpose or effect would be to require a
2 new or increased expenditure of local funds from
3 becoming effective with regard to a local
4 governmental entity without enactment by a 2/3 vote
5 unless: it comes within one of a number of
6 specified exceptions; it is approved by the
7 affected entity; or the Legislature appropriates
8 funds, or provides a local source of revenue, to
9 the entity for the purpose.

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

17
18 A BILL
19 TO BE ENTITLED
20 AN ACT
21

22 To amend Sections 34-13-1, 34-13-4, 34-13-6,
23 34-13-9, 34-13-20, 34-13-22, 34-13-23, 34-13-26, 34-13-31,
24 34-13-53, 34-13-56, 34-13-57, 34-13-70, 34-13-71, 34-13-72,
25 34-13-73, 34-13-91, 34-13-92, 34-13-93, 34-13-94, 34-13-111,
26 34-13-113, 34-13-132, and 34-13-134, Code of Alabama 1975,
27 relating to the Alabama Board of Funeral Service; to provide

1 further for definitions; to authorize the board to provide
2 notice to applicants and licensees regarding statutory law,
3 rules of the board, renewal dates and fees, and license
4 examination dates and times, in electronic format; to require
5 each funeral establishment to have the casket price clearly
6 noted on each full-size and cut casket and on each photograph
7 and electronic image of a casket; to allow a board member to
8 serve until his or her successor is appointed; to authorize
9 independent contractors of the board to enter funeral
10 establishments for the purpose of inspection; to delete the
11 requirement that quarterly meetings be held for the purpose of
12 examining applicants; to authorize the board to delegate the
13 responsibility of administering the licensure examination; to
14 require that appeals be taken within 30 days after an order is
15 signed by the board and to require the court to remand the
16 case under certain circumstances; to provide further for
17 instances where the board may refuse to grant, refuse to
18 renew, or suspend or revoke the license of a licensee; to
19 provide further for the qualifications and interviewing of an
20 applicant for license as a funeral director and embalmer; and
21 to require the change in ownership of a funeral establishment
22 to be immediately reported to the board, and to specify a fee;
23 and in connection therewith would have as its purpose or
24 effect the requirement of a new or increased expenditure of
25 local funds within the meaning of Amendment 621 of the
26 Constitution of Alabama of 1901, now appearing as Section

1 111.05 of the Official Recompilation of the Constitution of
2 Alabama of 1901, as amended.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. Sections 34-13-1, 34-13-4, 34-13-6,
5 34-13-9, 34-13-20, 34-13-22, 34-13-23, 34-13-26, 34-13-31,
6 34-13-53, 34-13-56, 34-13-57, 34-13-70, 34-13-71, 34-13-72,
7 34-13-73, 34-13-91, 34-13-92, 34-13-93, 34-13-94, 34-13-111,
8 34-13-113, 34-13-132, and 34-13-134 of the Code of Alabama
9 1975, are amended to read as follows:

10 "§34-13-1.

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

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

20 "a. Mortuary management and administration.

21 "b. Legal medicine and toxicology as it pertains to
22 funeral directing.

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

24 "d. Mortuary science, to include embalming
25 technique, in all its aspects; chemistry of embalming, color
26 harmony; discoloration, its causes, effects, and treatment;

1 treatment of special cases; restorative art; funeral
2 management; and professional ethics.

3 "e. Anatomy and physiology.

4 "f. Chemistry, organic and inorganic.

5 "g. Pathology.

6 "h. Bacteriology.

7 "i. Sanitation and hygiene.

8 "j. Public health regulations.

9 "k. Other courses of instruction in fundamental
10 subjects as may be prescribed by the Alabama Board of Funeral
11 Service.

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

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

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

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

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

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

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

21 "(8) CEMETERY AUTHORITY. Any individual, person,
22 firm, profit or nonprofit corporation, trustee, partnership,
23 society, religious society, church, association or
24 denomination, municipality, or other group or entity, however
25 organized, insofar as they or any of them may now or hereafter
26 establish, own, operate, lease, control, or manage one or more
27 cemeteries, burial parks, mausoleums, columbariums, or any

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

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

22 "(9)(10) CREMATION. The technical process, using
23 heat and flame, that reduces human remains to bone fragments.
24 The reduction takes place through heat and evaporation.
25 Cremation shall include the processing, and may include the
26 pulverization, of the bone fragments.

1 "~~(10)~~(11) CREMATIONIST. A person who performs the
2 procedure of cremation.

3 "~~(11)~~(12) CREMATORY. A building or portion of a
4 building that houses a retort and that may house a holding
5 facility for purposes of cremation and as part of a funeral
6 establishment.

7 "~~(12)~~(13) EMBALMER. Any person engaged or holding
8 himself or herself out as engaged in the business, practice,
9 science, or profession of embalming, whether on his or her own
10 behalf or in the employ of a registered and licensed funeral
11 director.

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

17 "~~(14)~~(15) FUNERAL. A ceremony for celebrating,
18 sanctifying, or remembering the life of a person who has died.
19 A funeral may be divided into the following two parts:

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

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

25 "~~(15)~~(16) FUNERAL DIRECTING. The practice of
26 directing or supervising funerals, the practice of preparing
27 dead human bodies for burial by means other than embalming, or

1 the preparation for the disposition of dead human bodies; the
2 making of arrangements or providing for funeral services or
3 the making of financial arrangements for the rendering of
4 these services or the sale of this merchandise or supplies;
5 the provision or maintenance of a place for the preparation
6 for disposition of dead human bodies; or the use of the terms
7 funeral director, undertaker, mortician, funeral parlor, or
8 any other term from which can be implied the practice of
9 funeral directing; or the holding out to the public that one
10 is a funeral director or engaged in a practice described in
11 this subdivision.

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

1 to be holding himself or herself out to the public as being
2 engaged in the profession of funeral directing; and for all
3 purposes under Alabama law, a funeral director is considered a
4 professional. For the purposes of this chapter, the term does
5 not include any cemetery authority.

6 "~~(17)~~(18) FUNERAL ESTABLISHMENTS. The term includes
7 any funeral home or mortuary service located at a specific
8 street address where the profession of funeral directing,
9 embalming, or cremation is practiced in the care, planning,
10 and preparation for burial or cremation or transportation of
11 human dead. The term does not include any cemetery or land or
12 structure owned, operated, leased, controlled, or managed by
13 any cemetery authority as a cemetery. A funeral establishment
14 shall consist of and maintain all of the following facilities:

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

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

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

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

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

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

12 "~~(18)~~ (19) FUNERAL SUPPLIES or FUNERAL MERCHANDISE.
13 Caskets made of any material for use in the burial or
14 transportation of human dead; outer receptacles, when sold by
15 a funeral director, including burial vaults and urns, for
16 cremated human remains; clothing used to dress human dead when
17 sold by a funeral director; and all equipment and
18 accouterments normally required for the preparation for burial
19 or funeral and other disposition of human dead.

20 "(20) GROSS IMMORALITY. Willful, flagrant, or
21 shameful immorality or showing a moral indifference to the
22 opinions of the good and respectable members of the community
23 and to the just obligations of the position held by the
24 offender.

25 "~~(19)~~ (21) MANAGING EMBALMER. A licensed embalmer who
26 has full charge, control, and supervision of all activities
27 involving the preparation room and embalming.

1 "~~(20)~~(22) MANAGING FUNERAL DIRECTOR. A licensed
2 funeral director who has full charge, control, and supervision
3 of all activities involving funeral directing at a funeral
4 establishment.

5 "(23) MORAL TURPITUDE. Any unlawful sexual or
6 violent act, or any act involving theft, theft of services,
7 extortion, receiving stolen property, identity theft, forgery,
8 fraud, tampering with records, bribery, perjury, or any
9 similar act in any jurisdiction.

10 "~~(21)~~(24) MORTUARY SCIENCE. The scientific,
11 professional, and practical aspects, with due consideration
12 given to accepted practices, covering the care, preparation
13 for burial, or transportation of dead human bodies, which
14 shall include the preservation and sanitation of the bodies
15 and restorative art and those aspects related to public
16 health, jurisprudence, and good business administration.

17 "~~(22)~~(25) MORTUARY SERVICE. A location with a
18 specific street address where embalming or cremation, or both,
19 is practiced for a licensed funeral establishment and where no
20 services or merchandise are sold directly or at retail to the
21 public. A mortuary service shall consist of and maintain all
22 of the following facilities:

23 "a. A preparation room equipped with sanitary
24 nonporous floor and walls, operating embalming equipment, and
25 necessary drainage and ventilation and containing necessary
26 approved tables, instruments, hot and cold running water,
27 containers or receptacles for soiled linen or clothing, and

1 supplies for the preparation and embalming of dead human
2 bodies for burial, cremation, and transportation.

3 "b. At least one operating motor vehicle properly
4 licensed and equipped for transporting human remains in a
5 casket or urn.

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

8 "~~(23)~~ (26) OPERATOR. A person, corporation, firm,
9 legal representative, or other organization owning or
10 operating a funeral establishment.

11 "~~(24)~~ (27) PRACTICAL EMBALMERS. Any person who has
12 been actively and continuously engaged or employed in the
13 practice of embalming under the supervision of a licensed
14 embalmer for four consecutive years immediately preceding May
15 1, 1975, and has been issued a license as a practical embalmer
16 under the grandfather provisions of this chapter.

17 "~~(25)~~ (28) PROCESSING or PULVERIZATION. The reduction
18 of identifiable bone fragments after the completion of the
19 cremation process to unidentifiable bone fragments or
20 granulated particles by manual or mechanical means.

21 "~~(26)~~ (29) RETORT. An enclosed space within which the
22 cremation process takes place.

23 "~~(27)~~ (30) TEMPORARY CONTAINER. A receptacle for
24 cremated remains, usually composed of cardboard, plastic, or
25 similar material, that can be closed in a manner that prevents
26 the leakage or spillage of the cremated remains or the
27 entrance of foreign material, and is a single container of

1 sufficient size to hold the cremated remains until an urn is
2 acquired or the cremated remains are scattered or buried.

3 "~~(28)~~ (31) URN. A receptacle designed to encase
4 cremated remains.

5 "(b) Nothing in this chapter shall require a funeral
6 director or funeral establishment to have or provide a chapel
7 or to restrict the conduct of funeral services from a church
8 or chapel.

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

20 "§34-13-4.

21 "Upon request, the board shall distribute to funeral
22 directors, embalmers, and apprentices and such other persons
23 as may be interested therein, in ~~pamphlet~~ hard copy form, and
24 shall maintain in electronic format on the website of the
25 board, the provisions of this chapter together with all rules
26 and regulations prescribed, adopted, or promulgated pursuant

1 to this chapter, together with a complete and current list of
2 all persons and establishments licensed under this chapter.

3 "§34-13-6.

4 "In the event a licensee under this chapter should
5 have cause to believe that the board, or a member or members
6 thereof, has used the powers of the board to promulgate orders
7 or rulings or requirements not intended by this chapter and
8 that such orders or rulings or requirements are used to
9 subject the licensee to unreasonable and wrongful
10 interpretations of this chapter by the board or that the board
11 or a member or members thereof have imposed the powers of the
12 board or the wrongful interpretations of this chapter upon the
13 licensee to such extent that it constitutes ~~harrasment~~
14 harassment of the licensee, then the licensee may take an
15 appeal for relief to the circuit court of the county in which
16 the licensee practices embalming, funeral directing, or
17 operates a funeral establishment as prescribed in Section
18 34-13-31.

19 "§34-13-9.

20 "Funeral service, cemetery service, and funeral
21 merchandise pricing shall conform to rules established by the
22 Federal Trade Commission and each funeral establishment shall
23 have a card or brochure in each full-size and cut casket, and
24 a clear statement on each photograph and electronic image of a
25 casket, stating the unit price of that casket.

26 "§34-13-20.

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

16 "(b) At a special meeting called for such purpose,
17 to be held in Montgomery, within 45 days from September 10,
18 1975, the Alabama Funeral Directors Association, Incorporated,
19 and the Alabama Funeral Directors and Morticians Association,
20 Incorporated, in joint meeting, shall nominate three qualified
21 persons for each of the positions as members of the original
22 board of the Alabama Board of Funeral Service which are not
23 filled by members of the State Embalming Board. The names of
24 such persons so nominated shall be promptly certified by the
25 secretary of the Alabama Funeral Directors Association,
26 Incorporated, and the Alabama Funeral Directors and Morticians
27 Association, Incorporated, to the Governor who shall appoint

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

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

1 same race. The Governor shall promptly appoint one of the
2 three persons so nominated. If an appointment is not made
3 before the expiration of the term of a board member, then the
4 board member may continue to serve until a successor has been
5 appointed.

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

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

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

20 "§34-13-22.

21 "The Alabama Board of Funeral Service shall hold not
22 less than one meeting quarterly ~~for the purpose of examining~~
23 ~~applicants for licenses~~, such meeting to be held at such time
24 and place as the board may determine after notice of such
25 meeting has been given in the manner prescribed herein at
26 least 15 days prior to such meeting. ~~The board shall not have~~
27 ~~power to delegate to any person who is not a member of the~~

1 ~~board the authority to conduct or administer an examination~~
2 ~~for a license.~~ The board may hold such other meetings as it
3 may deem necessary. Five or more members shall comprise a
4 quorum. The board shall not meet on the premises of any
5 embalming school or college of mortuary science; and, if any
6 such meeting is held, all the proceedings of such meeting
7 shall be void. ~~If any application for license under this~~
8 ~~chapter is pending, the applicant or applicants shall be~~
9 ~~afforded the right to take the examination required hereunder~~
10 ~~at the date and place of such quarterly meeting.~~

11 "§34-13-23.

12 "(a) (1) The board appointed under this chapter and
13 each successor thereto is authorized to select from its own
14 membership a chair and to adopt and promulgate such rules and
15 regulations for the transaction of its business and for the
16 betterment and promotion of the standards of service and
17 practice to be followed in the funeral service profession in
18 the State of Alabama as it may deem expedient and consistent
19 with the laws of this state and for the public good.

20 "(2) The chair shall preside at all meetings of the
21 board unless otherwise ordered, and he shall exercise and
22 perform all duties and functions incident to the office of
23 chair.

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

1 "(b) The treasurer shall give bond to the State of
2 Alabama in the sum of ten thousand dollars (\$10,000), and any
3 premium payable for the bond shall be paid from the funds of
4 the board. The bond shall be deposited with the Treasurer of
5 the State of Alabama.

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

25 "(d) The executive secretary of the board shall have
26 complete supervision and be held responsible for the direction
27 of the office of the board, shall have supervision over field

1 inspection and enforcement of this chapter, and shall be
2 responsible and answerable to the board. The associate
3 executive secretary shall assist the executive secretary and
4 perform such other duties as may be assigned to him or her by
5 the board. The executive secretary and associate executive
6 secretary shall not be of the same race.

7 "(e) The executive secretary shall keep a record in
8 which shall be registered the name and business address of
9 every person to whom licenses have been granted in accordance
10 with this chapter, the number and date of the license and the
11 date of each renewal. Upon request to do so, the executive
12 secretary shall supply each person licensed for the practice
13 of embalming and funeral directing with a list of all persons
14 and establishments holding a license under this chapter, then
15 in force, giving the names of the persons, their business
16 addresses, and the numbers of their licenses.

17 "(f) It shall be the duty of the executive secretary
18 to prepare under the direction of the board and cause to be
19 printed all forms required by this chapter to be prescribed by
20 the board. All notices required to be mailed by this chapter
21 shall be directed to the last known post office address of the
22 party to whom the notice is sent.

23 "(g) The executive secretary shall serve at the
24 pleasure of the board and shall perform duties as may be
25 necessary for the proper functioning of the board as the board
26 may determine or as may be prescribed in this chapter. During

1 the employment of the executive secretary he or she may not be
2 employed by any funeral establishment.

3 "(h) All fees and fines received under this chapter
4 shall be paid into a special fund in the State Treasury to be
5 known as the Alabama State Funeral Directors and Embalmers
6 Fund, which is hereby created, for the necessary and proper
7 expenses of the board, and for a reasonable reserve for future
8 use by the board. All moneys in the fund are hereby
9 appropriated, as a continuing appropriation, to the Alabama
10 Board of Funeral Service to be used for carrying out this
11 chapter.

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

25 "(j) All members of the board or designated
26 employees of the board are hereby authorized to serve and
27 execute any process issued by any court under this chapter and

1 to serve and execute any papers or process issued by the board
2 or any officer or member thereof under authority of this
3 chapter.

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

9 "§34-13-26.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

3 "§34-13-31.

4 "(a) Whenever, by decision, final order or other
5 final determination upon any public hearing provided for by
6 this chapter, a party to such hearing shall feel aggrieved, an
7 appeal may be taken to the circuit court for the county within
8 which such party resides or, if he or she is not a resident of
9 Alabama, then to the circuit court for the county within which
10 the hearing was held. However, if there is more than one
11 appellant, the circuit court having jurisdiction to hear the
12 appeal of the first appellant filing a notice of appeal shall
13 have jurisdiction to hear all appeals arising from the same
14 hearing, irrespective of the place of residence of the
15 appellants.

16 "(b) On taking and perfecting an appeal to the
17 circuit court having jurisdiction thereof, the court shall
18 proceed as in other cases.

19 "(c) All appeals shall be taken within 30 days from
20 the date of the ~~action or order made~~ order of the board which
21 is the basis of the appeal being signed and shall be granted
22 as a matter of right and be deemed perfected by filing with
23 the board a bond for security of costs of the appeal. Upon
24 filing of a verified petition and hearing thereon, the court
25 may, in its discretion, stay the order appealed from pending
26 final judicial review. No new or additional evidence may be
27 introduced in the circuit court except as to fraud or

1 misconduct of some person engaged in the administration of
2 this chapter and affecting the order, rule, or ruling appealed
3 from. The court shall otherwise hear the case upon the record
4 as certified to the court by the executive secretary of the
5 board and shall set aside the order, rule, or action appealed
6 from if the court finds that the board erred to the prejudice
7 of the appellant's substantial rights in its application of
8 the law; or, the order, decision, or award was procured by
9 fraud or was based upon a finding of facts contrary to the
10 substantial weight of the evidence, or that the order was
11 arbitrary, capricious, or inconsistent with respect to any of
12 the material issues involved; or that the board failed in its
13 order to find sufficient facts as to each material issue
14 involved to enable the court to determine the basis for the
15 conclusion of the board. The court ~~may~~, instead of setting
16 aside the order, shall remand the case to the board for
17 further proceedings in conformity with the direction of the
18 court. The court may, in advance of judgment and upon a
19 sufficient showing, remand the cause to the board for the
20 purpose of taking additional testimony or other proceedings.

21 "(d) An appeal may be taken from the judgment decree
22 or any appealable order of the circuit court to the Supreme
23 Court of this state. Appeals to the Supreme Court shall be
24 taken, perfected, heard, and determined in the manner
25 prescribed by law and the Alabama Rules of Appellate Procedure
26 for taking, perfecting, hearing, and determining appeals to
27 the Supreme Court.

1 "§34-13-53.

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

8 "(b) All licenses granted under this chapter shall
9 expire on October 1, following their issuance or renewal, and
10 shall become invalid unless renewed as provided in this
11 section and other requirements of the board are met. There
12 shall be no proration of licenses.

13 "(c) The board shall ~~mail~~ provide in electronic
14 format on or before August 1 of each year to each licensed
15 funeral director, ~~to each~~ licensed embalmer, and ~~to each~~
16 licensed operator, ~~addressed to him or her at his or her last~~
17 ~~address,~~ a notice that his or her renewal fee is due and
18 payable and that, if such fee is not paid by October 1, the
19 license shall lapse. Information regarding license renewal
20 dates and fees shall be available in electronic format on the
21 website of the board.

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

1 "§34-13-56.

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

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

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

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

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

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

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

24 "d.e. Employment by the licensee of a person or
25 persons to be used for the purpose of obtaining or soliciting
26 funeral directing or embalming business.

1 "e.f. Employment directly or indirectly of any
2 apprentice, agent, assistant, embalmer, employee, or other
3 person, on part or full time or on commission, for the purpose
4 of calling upon individuals or institutions where a death has
5 occurred or is imminent by whose influence dead human bodies
6 may be turned over to a particular funeral director or
7 embalmer or funeral establishment, or both.

8 "f.g. The buying of business by the licensee, his or
9 her agents, assistants, or employees.

10 "g.h. Gross immorality.

11 "h.i. Aiding or abetting an unlicensed person to
12 practice funeral directing or embalming.

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

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

21 "k.l. Any violation of this chapter.

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

25 "m.n. Fraud or misrepresentation in obtaining a
26 license.

1 "n.o. Refusing to promptly surrender the custody of
2 a dead human body, upon the express order and payment for
3 services rendered of the person lawfully entitled to the
4 custody thereof.

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

8 "p.g. Being intoxicated or under the influence of
9 illegal drugs while on duty at a funeral establishment or
10 while performing any duty or responsibility for the funeral
11 establishment.

12 "q.r. Willfully retaining or willfully failing to
13 account for any property of a decedent.

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

18 "s.t. Failure to give full cooperation to the board
19 or its designees, agents, or other representatives in the
20 performance of official duties of the board. ~~Failure to give~~
21 ~~full cooperation includes, but is not limited to, any of the~~
22 ~~following:~~

23 "~~(i)~~u. Not furnishing any relevant papers or
24 documents requested by or for the board.

25 "~~(ii)~~v. Not furnishing, in writing, an adequate
26 explanation relating to a matter contained in a complaint
27 filed with the board against the licensee.

1 "~~(iii)~~w. Not responding to a subpoena issued by the
2 board, without good cause shown, whether or not the licensee
3 is the party charged in any proceeding before the board.

4 "~~(iv)~~x. Not providing reasonable access to the board
5 or an authorized agent or representative of the board for the
6 performance of reviews or inspections at facilities or places
7 utilized by the licensee in the practice of funeral service or
8 funeral directing or in performing any other activity
9 regulated by the board.

10 "~~(v)~~y. Failing to provide information within a
11 specific time as required by the board or an authorized agent
12 or representative of the board.

13 "~~(vi)~~z. Failing to cooperate with the board or an
14 authorized agent or representative of the board in the
15 investigation of any alleged misconduct or interfering with a
16 board investigation through the willful misrepresentation of
17 facts.

18 "~~(vii)~~aa. Deceiving or attempting to deceive the
19 board regarding any matter under investigation, including the
20 altering or destroying of any records.

21 "~~(viii)~~bb. Failure, without good cause, to cooperate
22 with any request from the board to appear before the board.

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

1 bodies, or the sale of funeral services or funeral merchandise.

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

7 ~~"(xi)dd. Demonstrating bad faith, incompetence, or~~
8 ~~untrustworthiness or dishonest, fraudulent, or improper~~
9 ~~dealing or any other violation of this chapter or any rule~~
10 ~~promulgated by the board or promulgated by the Federal Trade~~
11 ~~Commission relative to the practice of funeral service or~~
12 ~~funeral directing.~~

13 "ee. Any other reason as determined by the board
14 that would render an individual unsuitable for licensure or
15 certification by the board.

16 "ff. A funeral home or funeral director accepting
17 funds for a preneed funeral contract or other prepayment of
18 funeral expenses without a certificate of authority to sell
19 preneed funeral contracts or, if registered to sell preneed
20 funeral contracts, failing to deposit the funds with a
21 qualified trustee or to timely remit premium payments from the
22 consumer to the insurer.

23 "(b) In addition to the disciplinary actions
24 authorized in subsection (a), the board may levy and collect
25 administrative fines for violations of this chapter or the
26 rules or regulations of the board in an amount not less than
27 five hundred dollars (\$500) nor more than two thousand five

1 hundred dollars (\$2,500) for each violation, unless otherwise
2 provided for in this chapter or by rule of the board.

3 "§34-13-57.

4 "~~The~~ Fifteen days before an examination, the
5 executive secretary of the board shall ~~mail notices~~ provide to
6 all applicants and all ~~established~~ funeral ~~firms~~
7 establishments in the state, in electronic format and on the
8 website of the board, a notice 15 days before an examination,
9 listing the names of all persons admitted by the board to take
10 the examination and setting out the time and place of the
11 examination.

12 "§34-13-70.

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

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

25 "~~(c) In addition, the board shall establish and~~
26 ~~charge a reasonable examination fee, based on actual costs,~~
27 ~~for each applicant who sits for an examination. In no event~~

1 ~~shall the fee exceed fifty dollars (\$50) above the actual cost~~
2 ~~of preparing and administering such exam.~~

3 "§34-13-71.

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

15 "§34-13-72.

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

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

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

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

1 board deems excusable as caused by circumstances beyond the
2 control of the applicant.

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

6 "(5) Has completed a course of instruction in an
7 accredited mortuary or funeral service school or college which
8 has been approved by the board pursuant to Section 34-13-50,
9 or has completed a bachelor's degree program from an
10 accredited school.

11 "(b) The board may certify an applicant to take an
12 examination for a funeral director's license after verifying
13 that the applicant has completed a course of instruction in
14 funeral arts at an accredited mortuary or funeral service
15 school or college meeting the criteria or standards defined in
16 this chapter. The board may not issue a funeral director's
17 license to any applicant who has not completed a two year
18 apprenticeship.

19 "(c) An applicant has two years from the expiration
20 date of his or her last active apprentice certification to
21 successfully complete the examination for a funeral director's
22 license pursuant to this chapter. Any applicant who fails to
23 successfully pass the examination, is required to serve a new
24 apprenticeship in accordance with this chapter.

25 "(d) The board shall establish and charge a
26 reasonable examination fee, based on actual costs, for each
27 applicant who sits for an examination. In no event shall the

1 fee exceed fifty dollars (\$50) above the actual cost of
2 preparing and administering the examination.

3 "§34-13-73.

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

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

22 "(1) Mortuary management and administration.

23 "(2) Mortuary law.

24 "(3) Basic accounting principles.

25 "(4) Funeral directing.

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

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

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

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

11 "(f) The board may delegate the responsibility of
12 conducting or administering a license examination to any
13 qualified person or entity who is not a member of the board.

14 "(g) An applicant may take the required license
15 examination during the time that his or her application for
16 license is pending.

17 "§34-13-91.

18 "The applicant for an embalmer's license shall make
19 application to the board ~~and shall present himself or herself~~
20 ~~at the next meeting of the board for the examination of~~
21 ~~applicants.~~ The application must be in writing and verified on
22 a form provided by and addressed to the board and must be
23 accompanied by the prescribed fee and by affidavits of at
24 least two licensed embalmers to the effect that the applicant
25 is of good moral character and has met all qualifications
26 required for examination for license as prescribed by this

1 chapter. The board may require an applicant for an embalmer's
2 license to submit to a personal interview.

3 "§34-13-92.

4 "(a) In order to qualify for a license as an
5 embalmer, the applicant shall satisfy all of the following:

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

8 "(2) Be over 18 years of age.

9 "(3) Be of good character.

10 "(4) Have completed a two-year course of
11 apprenticeship under an embalmer or embalmers licensed and
12 engaged in practice as an embalmer in this state, and shall
13 have completed the required course of apprenticeship within a
14 period of three consecutive years, excluding time lost by
15 interruption caused by the active duty of the applicant in the
16 military service of the United States or its allies during war
17 or national emergency, and excluding time lost by
18 interruptions which the board deems excusable as caused by
19 circumstances beyond the control of the applicant.

20 "(5) Have completed a course of instruction in an
21 embalming school or college which has been approved by the
22 board as defined in Section 34-13-50.

23 "(6) Have completed the course of apprenticeship not
24 more than two years before the date of examination, excluding
25 time lost under the circumstances mentioned in subdivision
26 (4).

1 "(b) The board may certify an applicant to take an
2 examination for an embalmer's license after verifying that the
3 applicant has graduated from an accredited mortuary or funeral
4 service school or college meeting the criteria or standards
5 defined in this chapter. The board may not issue a embalmer's
6 license to any applicant who has not completed a two year
7 apprenticeship.

8 "(c) The board shall establish and charge a
9 reasonable examination fee, based on actual costs, for each
10 applicant who sits for an examination. In no event shall the
11 fee exceed fifty dollars (\$50) above the actual cost of
12 preparing and administering the examination.

13 "\$34-13-93.

14 "The board ~~shall~~ may hold a public examination at
15 least once each quarter for the purpose of examining
16 applicants for an embalmer's license, ~~as prescribed in Section~~
17 ~~34-13-22~~, at such time and place as the board may determine.
18 Notice of the time and place of the meeting shall be ~~sent~~
19 provided electronically to the various applicants ~~by mail and~~
20 shall be available on the website of the board at least 15
21 days before the meeting or examination.

22 "\$34-13-94.

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

25 "(1) Mortuary management and administration.

26 "(2) Legal medicine and toxicology.

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

1 "(4) Mortuary science, to include embalming
2 technique, in all aspects; chemistry of embalming, color
3 harmony; discoloration, its causes, effect, and treatment;
4 treatment of special cases; restorative art; funeral
5 management; and professional ethics.

6 "(5) Anatomy and physiology.

7 "(6) Chemistry, organic and inorganic.

8 "(7) Pathology.

9 "(8) Bacteriology.

10 "(9) Sanitation and hygiene.

11 "(10) Public health regulations.

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

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

16 "(c) To constitute a passing grade, an applicant
17 shall earn an average score of at least 75 percent.

18 "(d) The board may issue an embalmer's license to an
19 applicant who receives a passing grade on a recognized
20 national embalmer's examination approved by the board.

21 "(e) If the board is satisfied that the applicant
22 has the requisite qualifications to practice the occupation of
23 embalming, a license shall be issued to him or her authorizing
24 him or her to practice such occupation until October 1 of that
25 year, at which time the license may be renewed as prescribed
26 in this chapter.

1 "(f) The board may delegate the responsibility of
2 conducting or administering a license examination to any
3 qualified person or entity who is not a member of the board.

4 "(g) An applicant may take the required license
5 examination during the time that his or her application for
6 license is pending.

7 "§34-13-111.

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

14 "(b) Every funeral service, memorial service, or
15 interment, or part thereof, that is conducted in Alabama shall
16 be in the actual charge and shall be under the direct
17 supervision of a funeral director who is licensed by the
18 board.

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

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

16 ~~"(c)(d)~~ Applications for transfer of a license to
17 another location in the same county shall be made upon ~~blanks~~
18 a form furnished by the board and shall be accompanied by a
19 fee of not more than seventy-five dollars (\$75). ~~The fee for a~~
20 ~~new branch or location for a funeral establishment shall be~~
21 ~~\$250. Any change in ownership shall be immediately reported to~~
22 ~~the board.~~

23 (e) Any change in ownership of a funeral
24 establishment shall be immediately reported to the board on a
25 form provided by the board. The new owner of the establishment
26 shall comply with Section 34-13-112 and Section 34-13-113 and
27 shall provide to the board a signed copy of the asset purchase

1 agreement with dollar amounts redacted. The fee for a change
2 of ownership application is two hundred fifty dollars (\$250).

3 "§34-13-113.

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

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

13 "(2) That the establishment is operated by a
14 licensed funeral director and a licensed embalmer or a person
15 licensed both as a funeral director and embalmer.

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

18 "(4) That the establishment has a sanitary, properly
19 equipped embalming room, a room suitable for public viewing or
20 other funeral services that is able to accommodate a minimum
21 of 100 people, an office for arrangement conferences with
22 relatives or authorized representatives, and a display room
23 containing a stock of adult caskets and funeral supplies
24 displayed in full size, cuts, photographs, or electronic
25 images. At no time shall less than eight different adult full
26 size caskets and at least one operating and properly licensed
27 funeral coach or hearse equipped for transporting human

1 remains in a casket or urn be on the premises. A funeral
2 establishment, that has more than one location under the same
3 ownership wherein the profession of funeral directing is
4 practiced, is not required to maintain more than one
5 preparation room upon satisfying requirements prescribed by
6 the board.

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

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

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

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

24 "(2) That the mortuary service applicant is operated
25 by a licensed embalmer or a person licensed both as a funeral
26 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 "§34-13-132.

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

25 "§34-13-134.

26 "(a) The board has power to suspend or revoke a
27 certificate of apprenticeship, after notice and upon hearing,

1 where the apprentice is guilty of any of the following acts or
2 omissions:

3 "(1) Failure to devote not less than an average of
4 30 hours per week to the duties of his or her apprenticeship;

5 "(2) Failure to make an annual report to the board
6 as required by this chapter;

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

10 "(4) Gross immorality;

11 "(5) Being on duty as an apprentice while under the
12 influence of liquor or illegal drugs;

13 "(6) Disobedience of proper orders or instructions
14 of his or her superiors;

15 "(7) Violation of any provision of this chapter or
16 any rule or regulation of the board made under this chapter;

17 "(8) Soliciting business for a funeral director or
18 for any embalmer; or

19 "(9) Fraud or misrepresentation in obtaining a
20 certificate of registration as an apprentice.

21 "(b) An apprentice who has ~~allowed his or her~~
22 ~~certificate of apprenticeship to lapse~~ failed to renew his or
23 her registration, or who has had his or her certificate of
24 apprenticeship suspended or revoked may, within one year after
25 such expiration, suspension, or revocation, make application
26 for registration but not more than two such registrations
27 shall be allowed by the board. The board may, when the

1 circumstances warrant, allow an apprentice credit under a
2 reregistration for time actually served under a previous
3 registration; except, that if the previous registration has
4 been suspended or revoked upon any of the grounds set forth in
5 subsection (a) of this section, not more than 75 percent of
6 the time previously served shall be credited on the
7 reregistration."

8 Section 2. Although this bill would have as its
9 purpose or effect the requirement of a new or increased
10 expenditure of local funds, the bill is excluded from further
11 requirements and application under Amendment 621, now
12 appearing as Section 111.05 of the Official Recompilation of
13 the Constitution of Alabama of 1901, as amended, because the
14 bill defines a new crime or amends the definition of an
15 existing crime.

16 Section 3. This act shall become effective on the
17 first day of the third month following its passage and
18 approval by the Governor, or its otherwise becoming law.