

By Representative Ball

1 A bill to be entitled
2 An act relating to funeral directing,
3 embalming, and direct disposition; amending s.
4 470.002, F.S.; redefining the term "legally
5 authorized person"; amending s. 470.0085, F.S.;
6 requiring certain students to register with the
7 Department of Business and Professional
8 Regulation; amending s. 470.009, F.S.; revising
9 licensure requirements; amending s. 470.015,
10 F.S.; revising education requirements for
11 license renewal; amending s. 470.018, F.S.;
12 revising continuing education requirements;
13 amending s. 470.024, F.S.; prohibiting certain
14 colocated funeral establishments; providing
15 exceptions; requiring relicensure of
16 establishments following ownership changes;
17 amending s. 470.029, F.S.; setting deadlines
18 for reports; amending s. 470.0294, F.S.;
19 providing for reliance on certain
20 representations by legally authorized persons;
21 amending s. 470.0301, F.S.; providing
22 registration requirements for central embalming
23 facilities; providing fees; creating ss.
24 470.0315, 470.0325, F.S.; providing for the
25 storage, preservation, and shipment of human
26 remains; establishing criteria; creating s.
27 470.0355, F.S.; providing for the
28 identification of human remains; providing an
29 effective date.

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31 Be It Enacted by the Legislature of the State of Florida:

1 Section 1. Subsection (18) of section 470.002, Florida
2 Statutes, 1996 Supplement, is amended to read:

3 470.002 Definitions.--As used in this chapter:

4 (18) "Legally authorized person" means, in the
5 priority listed, the decedent, when written inter vivos
6 authorizations and directions are provided by the decedent,
7 the surviving spouse, son or daughter who is 18 years of age
8 or older, parent, brother or sister 18 years of age or over,
9 grandchild who is 18 years of age or older, or grandparent; or
10 any person in the next degree of kinship. In addition, the
11 term may include, if no family exists or is available, the
12 following: the guardian of the dead person at the time of
13 death; the personal representative of the deceased; the
14 attorney-in-fact or health surrogate of the deceased at the
15 time of his or her death;a public health officer; the medical
16 examiner, county commission or administrator acting under
17 chapter 245, or other public administrator; a representative
18 of a nursing home or other health care institution in charge
19 of final disposition; or a friend or other person not listed
20 in this subsection who is willing to assume the responsibility
21 as authorized person.

22 Section 2. Section 470.0085, Florida Statutes, is
23 amended to read:

24 470.0085 Establishment of embalmer apprentice
25 program.--

26 (1) The board may adopt rules establishing an embalmer
27 apprentice program. An embalmer apprentice may perform only
28 those tasks, functions, and duties relating to embalming which
29 are performed under the direct supervision of a licensed
30 embalmer. An embalmer apprentice shall be eligible to serve
31 in an apprentice capacity for a period not to exceed 1 year as

1 may be determined by board rule. An embalmer apprentice shall
2 be registered with the board upon payment of a registration
3 fee not to exceed \$50.

4 (2) A student who works in a funeral establishment in
5 this state while enrolled in a mortuary science or funeral
6 education course at a mortuary college or funeral education
7 college or school must be registered with the board.

8 Section 3. Section 470.009, Florida Statutes, is
9 amended to read:

10 470.009 Licensure as a funeral director by
11 examination; provisional license.--

12 (1) Any person desiring to be licensed as a funeral
13 director shall apply to the department to take the licensure
14 examination. The department shall examine each applicant who
15 has remitted an examination fee set by the board not to exceed
16 \$200 plus the actual per applicant cost to the department for
17 portions of the examination and who the board certifies has:

18 (a) Completed the application form and remitted a
19 nonrefundable application fee set by the board not to exceed
20 \$50.

21 (b) Submitted proof satisfactory to the board that the
22 applicant is at least 18 years of age and is a recipient of a
23 high school degree or equivalent.

24 (c) Had no conviction or finding of guilt, regardless
25 of adjudication, for a crime which directly relates to the
26 ability to practice funeral directing or the practice of
27 funeral directing.

28 (d)1. Received an associate in arts degree, associate
29 in science degree, or an associate in applied science degree
30 in mortuary science approved by the board; or

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1 2. Holds an associate degree or higher from a college
2 or university accredited by a regional association of colleges
3 and schools recognized by the United States Department of
4 Education and is a graduate of at least a 1-year course in
5 mortuary science approved by the board.

6 (e) Submitted proof of completion of a board-approved
7 course on communicable diseases.

8 ~~(f) Has completed a 1-year internship under a licensed~~
9 ~~funeral director.~~

10 (2) The department shall license ~~the applicant~~ as a
11 funeral director an applicant who if he passes an examination
12 on the subjects of the theory and practice of funeral
13 directing, public health and sanitation, and local, state, and
14 federal laws and rules relating to the disposition of dead
15 human bodies and completes a 1-year internship under the
16 supervision of a licensed funeral director; however, the board
17 by rule may adopt the use of a national examination, such as
18 the funeral service arts examination prepared by the
19 Conference of Funeral Service Examining Boards, in lieu of
20 part of this examination requirement.

21 (3) Any applicant who has completed the internship
22 requirements and has been approved for examination as a
23 funeral director may qualify for a provisional license to work
24 in a licensed funeral establishment, under the direct
25 supervision of a licensed funeral director for a limited
26 period of 6 months as provided by rule of the board. The fee
27 for provisional licensure shall be set by the board but may
28 not exceed \$125. The fee required in this subsection shall be
29 nonrefundable and in addition to the fee required by
30 subsection (1). This provisional license may be renewed no
31 more than one time. ~~An applicant may not be granted a license~~

1 ~~until that applicant has completed a 1-year internship as~~
2 ~~prescribed by rule of the board.~~

3 Section 4. Subsection (1) of section 470.015, Florida
4 Statutes, 1996 Supplement, is amended to read:

5 470.015 Renewal of funeral director and embalmer
6 licenses.--

7 (1) The department shall renew a funeral director or
8 embalmer license upon receipt of the renewal application and
9 fee set by the board not to exceed \$250. The board may
10 prescribe by rule continuing education requirements of up to
11 12 classroom hours, in addition to a board-approved course on
12 communicable diseases, including a course on human
13 immunodeficiency virus and acquired immune deficiency
14 syndrome, for the renewal of a funeral director or embalmer
15 license. The board may provide for the waiver of continuing
16 education requirements in circumstances that would justify the
17 waiver, such as hardship, disability, or illness. The
18 continuing education requirement is not required after July 1,
19 1996, for a licensee who is over the age of 75 years if the
20 licensee does not qualify as the sole person in charge of an
21 establishment or facility.

22 Section 5. Subsection (2) of section 470.018, Florida
23 Statutes, is amended to read:

24 470.018 Renewal of registration of direct disposer.--

25 (2) The department shall adopt rules establishing a
26 procedure for the biennial renewal of registrations. The
27 board shall prescribe by rule continuing education
28 requirements of up to 3 classroom hours, in addition to a
29 board-approved course on communicable diseases, including a
30 course on human immunodeficiency virus and acquired immune
31 deficiency syndrome, for the renewal of a registration.

1 Section 6. Subsections (8) and (11) of section
2 470.024, Florida Statutes, 1996 Supplement, are amended to
3 read:

4 470.024 Funeral establishment; licensure.--

5 (8) Each funeral establishment located at a specific
6 address shall be deemed to be a separate entity and shall
7 require separate licensing and compliance with the
8 requirements of this chapter. A No funeral establishment may
9 not shall be operated at the same location as any other
10 funeral establishment or direct disposal establishment unless
11 such establishments were licensed as establishments colocated
12 on or before July 1, 1997 January 1, 1993. Any establishment
13 that was licensed as a colocated establishment on or before
14 July 1, 1997, may continue to renew its license in the same
15 manner in which other licenses are renewed, but the license
16 renewal is restricted to the facilities of the establishment
17 as they existed on that date. Other licensing of colocated
18 establishments is not permitted.

19 (11) A change in ownership of a funeral establishment
20 must shall be promptly reported to the department and shall
21 may require the relicensure of the funeral establishment,
22 including reinspection and payment of applicable fees.

23 Section 7. Subsection (1) of section 470.029, Florida
24 Statutes, is amended to read:

25 470.029 Reports of cases embalmed and bodies
26 handled.--

27 (1) Each funeral establishment, direct disposal
28 establishment, cinerator facility, and centralized embalming
29 facility shall report on a form prescribed and furnished by
30 the department the name of the deceased and such other
31 information as may be required with respect to each dead human

1 body embalmed or otherwise handled by the establishment or
2 facility. Such forms shall be signed by the embalmer who
3 performs the embalming, if the body is embalmed, and the
4 funeral director in charge of the establishment or facility or
5 by the direct disposer who disposes of the body. The board
6 shall prescribe by rule the procedures in submitting such
7 documentation. Reports must be filed by the 10th day of each
8 month for final dispositions handled during the preceding
9 month.

10 Section 8. Subsection (3) is added to section
11 470.0294, Florida Statutes, 1996 Supplement, to read:

12 470.0294 Additional rights of legally authorized
13 persons.--

14 (3) A person licensed pursuant to this chapter may
15 rely on the representation of any person designated as a
16 legally authorized person that there is no person known to the
17 legally authorized person that is in a priority class superior
18 to such person's class. The licensee does not have to
19 investigate the truth or falsity of the representation. If
20 there is more than one authorized person in a priority class
21 as set forth in s. 470.002(18), a licensee may rely on the
22 instructions of 50 percent of such class of persons known to
23 the licensee. A licensee is not required to investigate into
24 the number or identity of persons comprising a class. A
25 licensee is not liable for damages as a result of following
26 the instructions of an authorized person.

27 Section 9. Paragraphs (f) and (g) are added to
28 subsection (2) of section 470.0301, Florida Statutes, 1996
29 Supplement, to read:

30 470.0301 Removal services; refrigeration facilities;
31 centralized embalming facilities.--In order to ensure that the

1 removal, refrigeration, and embalming of all dead human bodies
2 is conducted in a manner that properly protects the public's
3 health and safety, the board shall adopt rules to provide for
4 the registration of removal services, refrigeration
5 facilities, and centralized embalming facilities operated
6 independently of funeral establishments, direct disposal
7 establishments, and cinerator facilities.

8 (2) CENTRALIZED EMBALMING FACILITIES.--In order to
9 ensure that all funeral establishments have access to
10 embalming facilities that comply with all applicable health
11 and safety requirements, the board shall adopt rules to
12 provide for the registration of centralized embalming
13 facilities and shall require, at a minimum, the following:

14 (f) Application for registration of a centralized
15 embalming facility must be made on forms furnished by the
16 department and accompanied by a nonrefundable fee not to
17 exceed \$300, as set by board rule. The board may also
18 establish by rule a late fee, not to exceed \$50. Any
19 registration not renewed within 30 days after the renewal date
20 shall expire without further action by the department.

21 (g) The board shall set by rule an annual inspection
22 fee not to exceed \$100, payable upon application for
23 registration and upon renewal of such registration.

24 Section 10. Section 470.0315, Florida Statutes, is
25 created to read:

26 470.0315 Storage, preservation, and transportation of
27 human remains.--

28 (1) Human remains may not be stored at any
29 establishment or facility except an establishment or facility
30 licensed or registered under this chapter or a health care

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1 facility, medical examiner's facility, morgue, or cemetery
2 holding facility.

3 (2) A dead human body may not be held in any place or
4 in transit for more than 24 hours after death or pending final
5 disposition, unless the body is maintained under refrigeration
6 at a temperature of 40 degrees Fahrenheit or below or is
7 embalmed or preserved in a manner approved by the board in
8 accordance with this chapter.

9 (3) A dead human body transported by common carrier or
10 any person authorized to carry human bodies must be placed in
11 a carrying container adequate to prevent the seepage of fluids
12 and escape of offensive odors and may be transported only when
13 accompanied by a properly completed burial-transit permit
14 issued pursuant to ch. 382.

15 (4) The board shall establish by rule the minimal
16 standards for the handling of dead human bodies.

17 (5) A person who violates this section is guilty of a
18 misdemeanor of the first degree, punishable as provided in s.
19 775.082 or s. 775.083.

20 Section 11. Section 470.0325, Florida Statutes, is
21 created to read:

22 470.0325 Transportation or storage of human
23 remains.--Human remains may be transported or stored for
24 purposes authorized under this chapter, if they are completely
25 covered and at all times treated with dignity and respect.

26 Section 12. Section 470.0355, Florida Statutes, is
27 created to read:

28 470.0355 Identification of human remains.--

29 (1) The licensee or registrant in charge of the final
30 disposition of dead human remains shall, before final
31 disposition of the remains, affix on the ankle or wrist of the

1 deceased, or in the casket, alternative container, or
2 cremation container, proper identification of the dead human
3 remains. The identification or tag shall be encased in or
4 consist of durable and long-lasting material containing the
5 name, date of birth, date of death, and social security number
6 of the deceased, if available. If the remains are cremated,
7 proper identification must be placed in the container or urn
8 containing the remains.

9 (2) The licensee or registrant responsible for the
10 removal of dead human remains to any establishment, facility,
11 or location must ensure that the remains are identified by a
12 tag or other means of identification that is affixed to the
13 ankle or wrist of the deceased at the time the remains are
14 removed from the place of death or other location.

15 (3) A licensee or registrant may rely on the
16 representation of a legally authorized person to establish the
17 identity of dead human remains.

18 Section 13. This act shall take effect July 1, 1997.

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21 SENATE SUMMARY

22 Revises provisions relating to the regulation of funeral
23 directing, embalming, and direct disposition of human
24 remains. Requires certain mortuary students to register
25 with the Department of Business and Professional
26 Regulation. Changes internship requirements. Revises
27 education and continuing education requirements to
28 include HIV and AIDS education courses. Prohibits
29 operating colocated establishments and provides an
30 exception. Requires the relicensure of establishments
31 following ownership changes. Establishes a deadline for
 monthly reports. Provides registration requirements for
 central embalming facilities. Provides guidelines for the
 storage, preservation, and shipment of human remains.
 Provides immunity from liability for licensees in dealing
 with certain authorized persons.