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A bill to be entitled

An act relating to funeral, cemetery, and other disposition services; amending s. 470.002, F.S.; revising and providing definitions applicable to regulation of funeral directing, embalming, and direct disposition; creating s. 470.0045, F.S.; requiring a background investigation of all applicants for licensure or registration under ch. 470, including submission of fingerprints; providing for a fee; providing rulemaking authority; amending s. 470.0085, F.S.; extending the embalmer apprentice period; amending s. 470.021, F.S.; providing additional requirements to be a direct disposal establishment; providing inspection requirements and criteria; requiring the Board of Funeral Directors and Embalmers to establish by rule the responsibilities of the direct disposer in charge; amending s. 470.024, F.S.; revising requirements to be a funeral establishment; requiring the Board of Funeral Directors and Embalmers to establish by rule the responsibilities of the funeral director in charge; amending s. 470.025, F.S.; revising cremation requirements for cinerator facilities relating to simultaneous cremations, body parts, cremation containers, and the cremation chamber; providing exemption from liability for unintentional or incidental commingling of remains under certain conditions; amending s. 470.0255, F.S.; providing for cremation of parts of human bodies incidental to final disposition; amending s. 470.028, F.S.; providing for control and supervision of preneed agents; amending s. 470.029, F.S.; extending the filing time for reports of bodies embalmed or handled; amending

HB 0253

2004

31 s. 470.031, F.S.; prohibiting any guarantee on the future
 32 price of any goods or services; providing penalties;
 33 amending s. 470.0355, F.S.; revising requirements for
 34 identification of human remains prior to final
 35 disposition; providing requirements for identification of
 36 human remains in licensed and unlicensed cemeteries and by
 37 direct disposal establishments; amending s. 470.036, F.S.,
 38 and reenacting paragraph (1)(a) thereof, relating to
 39 disciplinary proceedings, to incorporate the amendment to
 40 s. 470.031, F.S., in a reference thereto; revising
 41 terminology to apply disciplinary and administrative
 42 penalties to persons other than licensees and registrants;
 43 amending s. 497.005, F.S.; revising and providing
 44 definitions applicable to regulation of funeral and
 45 cemetery services; creating s. 497.306, F.S.; providing
 46 dimension and spacing standards for grave spaces;
 47 requiring a map of reference markers and a land survey for
 48 areas proposed to be developed by a licensed cemetery
 49 company; exempting adult grave spaces previously
 50 established; creating s. 497.307, F.S.; providing
 51 requirements for identification of human remains in
 52 licensed cemeteries; amending s. 497.405, F.S.;
 53 prohibiting any person from advertising for sale or making
 54 any arrangement for a preneed contract without having a
 55 valid certificate of authority; expanding the exemption
 56 from the required certificate of authority for certain
 57 religious-institution-owned cemeteries to include the sale
 58 and opening or closing of cremation interment containers
 59 to members and family members of the religious
 60 institution; amending s. 497.419, F.S.; requiring preneed

HB 0253

2004

61 contracts to include in the refund notice the exclusion
 62 for amounts allocable to burial rights, merchandise, and
 63 services used by the purchaser; amending s. 497.436, F.S.;
 64 authorizing the Board of Funeral and Cemetery Services to
 65 review the trust funds, trust agreements, and outstanding
 66 preneed contracts of, and perform other procedures at its
 67 discretion with respect to, a certificateholder filing
 68 notice to become inactive; providing an effective date.

69

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

71

72 Section 1. Section 470.002, Florida Statutes, is amended
 73 to read:

74 470.002 Definitions.--As used in this chapter:

75 (1)~~(15)~~ "Alternative container" means a nonmetal
 76 receptacle or enclosure which is less expensive than a casket
 77 and of sufficient strength to be used to hold and transport a
 78 dead human body.

79 (2)~~(22)~~ "At-need solicitation" means any uninvited contact
 80 by a funeral director or direct disposer for the purpose of the
 81 sale of funeral services or merchandise to the family or next of
 82 kin of a person after that person has died.

83 (3)~~(2)~~ "Board" means the Board of Funeral Directors and
 84 Embalmers.

85 (4) "Body parts" means:

86 (a) Human remains or limbs or other portions of the
 87 anatomy that are removed from a person for medical purposes
 88 during treatment, surgery, biopsy, autopsy, or medical research;
 89 or

90 (b) Human bodies or any portions of human bodies that have

HB 0253

2004

91 been donated to science for medical research purposes.

92 ~~(5)(16)~~ "Casket" means a rigid container which is designed
 93 for the encasement of human remains for burial, ~~and~~ which is
 94 usually constructed of wood or metal, ornamented, and lined with
 95 fabric, and which may or may not be combustible.

96 ~~(6)(27)~~ "Centralized embalming facility" means a facility,
 97 not physically connected with a funeral establishment, in which
 98 embalming takes place.

99 ~~(7)(14)~~ "Cinerator" means a facility where dead human
 100 bodies are reduced to a residue, including bone fragments, by
 101 direct flame, also known as "cremation," or by intense heat,
 102 also known as "calcination."

103 (8) "Closed container" means any container in which
 104 cremated remains can be placed and closed in a manner so as to
 105 prevent leakage or spillage of the remains.

106 (9) "Cremated remains" means all the remains of the human
 107 body recovered after the completion of the cremation process,
 108 including processing or pulverization which leaves only bone
 109 fragments reduced to unidentifiable dimensions and may include
 110 the residue of any foreign matter, including casket material,
 111 bridgework, or eyeglasses that were cremated with the human
 112 remains.

113 ~~(10)(24)~~ "Cremation" means the technical process, using
 114 direct flame and heat, that reduces human remains to bone
 115 fragments through heat and evaporation. Cremation includes the
 116 processing, and usually includes the pulverization, of the bone
 117 fragments ~~includes any mechanical or thermal process whereby a~~
 118 ~~dead human body is reduced to ashes and bone fragments.~~
 119 ~~Cremation also includes any other mechanical or thermal process~~

HB 0253

2004

120 ~~whereby human remains are pulverized, burned, reinterred, or~~
 121 ~~otherwise further reduced in size or quantity.~~

122 (11) "Cremation chamber" means the enclosed space within
 123 which the cremation process takes place. Cremation chambers
 124 covered by these procedures must be used exclusively for the
 125 cremation of human remains.

126 (12) "Cremation container" means the container in which
 127 the human remains are transported to and placed in the cremation
 128 chamber for a cremation. A cremation container should meet
 129 substantially all of the following standards:

130 (a) Be composed of readily combustible materials suitable
 131 for cremation.

132 (b) Be able to be closed in order to provide a complete
 133 covering for the human remains.

134 (c) Be resistant to leakage or spillage.

135 (d) Be rigid enough to be handled with ease.

136 (e) Be able to provide protection for the health, safety,
 137 and personal integrity of crematory personnel.

138 (13) "Cremation interment container" means a rigid outer
 139 container that, subject to a cemetery's rules and regulations,
 140 is composed of concrete, steel, fiberglass, or some similar
 141 material in which an urn is placed prior to being interred in
 142 the ground and which is designed to support the earth above the
 143 urn.

144 (14)~~(1)~~ "Department" means the Department of Business and
 145 Professional Regulation.

146 (15)~~(8)~~ "Direct disposal establishment" means a facility
 147 registered under this chapter where a direct disposer practices
 148 direct disposition.

HB 0253

2004

149 ~~(16)(9)~~ "Direct disposer" means any person registered
 150 under this chapter to practice direct disposition in this state.

151 ~~(17)(28)~~ "Disinterment" means removal of a dead human body
 152 from earth interment or aboveground interment.

153 ~~(18)(5)~~ "Embalmer" means any person licensed under this
 154 chapter to practice embalming in this state.

155 ~~(19)(11)~~ "Final disposition" means the final disposal of a
 156 dead human body by earth interment, aboveground interment,
 157 cremation, burial at sea, or delivery to a medical institution
 158 for lawful dissection if the medical institution assumes
 159 responsibility for disposal. "Final disposition" does not
 160 include the disposal or distribution of ashes and residue of
 161 cremated human remains.

162 ~~(20)(13)~~ "Funeral" or "funeral service" means the
 163 observances, services, or ceremonies held to commemorate the
 164 life of a specific deceased human being, and at which the human
 165 remains are present.

166 ~~(21)(3)~~ "Funeral director" means any person licensed under
 167 this chapter to practice funeral directing in this state.

168 ~~(22)(7)~~ "Funeral establishment" means a facility licensed
 169 under this chapter where a funeral director or embalmer
 170 practices funeral directing or embalming.

171 ~~(23)(12)~~ "Funeral merchandise" or "merchandise" means any
 172 merchandise commonly sold in connection with the funeral, final
 173 disposition, or memorialization of human remains, including, but
 174 not limited to, caskets, outer burial containers, alternative
 175 containers, cremation containers, cremation interment
 176 containers, urns, monuments, private mausoleums, flowers,
 177 shrubs, benches, vases, acknowledgment cards, register books,
 178 memory folders, prayer cards, and clothing.

HB 0253

2004

179 ~~(24)~~(23) "Human remains" or "remains," "dead human body"
 180 or "dead human bodies," means the body of a deceased human
 181 person for which a death certificate or fetal death certificate
 182 is required under chapter 382 and includes the body in any stage
 183 of decomposition and the residue of cremated human bodies.

184 ~~(25)~~(18) "Legally authorized person" means, in the
 185 priority listed, the decedent, when written inter vivos
 186 authorizations and directions are provided by the decedent, the
 187 surviving spouse, unless the spouse has been arrested for
 188 committing against the deceased an act of domestic violence as
 189 defined in s. 741.28 that resulted in or contributed to the
 190 death of the deceased, a son or daughter who is 18 years of age
 191 or older, a parent, a brother or sister 18 years of age or over,
 192 a grandchild who is 18 years of age or older, or a grandparent;
 193 or any person in the next degree of kinship. In addition, the
 194 term may include, if no family exists or is available, the
 195 following: the guardian of the dead person at the time of death;
 196 the personal representative of the deceased; the attorney in
 197 fact of the dead person at the time of death; the health
 198 surrogate of the dead person at the time of death; a public
 199 health officer; the medical examiner, county commission or
 200 administrator acting under part II of chapter 406, or other
 201 public administrator; a representative of a nursing home or
 202 other health care institution in charge of final disposition; or
 203 a friend or other person not listed in this subsection who is
 204 willing to assume the responsibility as authorized person. Where
 205 there is a person in any priority class listed in this
 206 subsection, the funeral establishment shall rely upon the
 207 authorization of any one legally authorized person of that class
 208 if that individual represents that he or she is not aware of any

HB 0253

2004

209 objection to the cremation of the deceased's human remains by
 210 others in the same class of the person making the representation
 211 or of any person in a higher priority class.

212 (26) "Niche" means a compartment or cubicle for the
 213 memorialization or permanent placement of a container or urn
 214 containing cremated remains.

215 (27)~~(19)~~ "Outer burial container" means an enclosure into
 216 which a casket is placed, including, but not limited to, a vault
 217 made of concrete, steel, fiberglass, or copper, a sectional
 218 concrete enclosure, a crypt, or a wooden enclosure.

219 (28)~~(20)~~ "Personal residence" means any residential
 220 building in which one temporarily or permanently maintains his
 221 or her abode, including, but not limited to, an apartment or a
 222 hotel, motel, nursing home, convalescent home, home for the
 223 aged, or a public or private institution.

224 (29)~~(10)~~ "Practice of direct disposition" means the
 225 cremation of human remains without preparation of the human
 226 remains by embalming and without any attendant services or rites
 227 such as funeral or graveside services or the making of
 228 arrangements for such final disposition.

229 (30)~~(6)~~ "Practice of embalming" means disinfecting or
 230 preserving or attempting to disinfect or preserve dead human
 231 bodies by replacing certain body fluids with preserving and
 232 disinfecting chemicals.

233 (31)~~(4)~~ "Practice of funeral directing" means the
 234 performance by a licensed funeral director of any of those
 235 functions authorized by s. 470.0087.

236 (32)~~(21)~~ "Preneed sales agent" means any person who is
 237 registered under chapter 497 to sell preneed burial or funeral

HB 0253

2004

238 service and merchandise contracts or direct disposition
 239 contracts in this state.

240 (33) "Processing" means the reduction of identifiable bone
 241 fragments after the completion of the cremation process to
 242 unidentifiable bone fragments by manual means.

243 (34) "Pulverization" means the reduction of identifiable
 244 bone fragments after the completion of the cremation and
 245 processing to granulated particles by manual or mechanical
 246 means.

247 ~~(35)~~(25) "Refrigeration facility" means a facility that is
 248 not physically connected with a funeral establishment, crematory
 249 or direct disposal establishment, that maintains space and
 250 equipment for the storage and refrigeration of dead human
 251 bodies, and that offers its service to funeral directors and
 252 funeral establishments for a fee.

253 ~~(36)~~(26) "Removal service" means any service that operates
 254 independently of a funeral establishment, that handles the
 255 initial removal of dead human bodies, and that offers its
 256 service to funeral establishments and direct disposal
 257 establishments for a fee.

258 ~~(37)~~(17) "Solicitation" means any communication which
 259 directly or implicitly requests an immediate oral response from
 260 the recipient.

261 (38) "Temporary container" means a receptacle for cremated
 262 remains usually made of cardboard, plastic, or similar material
 263 designated to hold the cremated remains until an urn or other
 264 permanent container is acquired.

265 (39) "Urn" means a receptacle designed to permanently
 266 encase cremated remains.

HB 0253

2004

267 Section 2. Section 470.0045, Florida Statutes, is created
 268 to read:

269 470.0045 Background investigation; fee; rulemaking
 270 authority.--

271 (1) A thorough background investigation of all applicants
 272 for licensure or registration under this chapter, including, but
 273 not limited to, all corporate officers, partners, managers, and
 274 controlling shareholders of all facilities licensed or
 275 registered under this chapter, shall be instituted by the
 276 department. Such investigation shall require:

277 (a) The submission of fingerprints, for processing through
 278 appropriate law enforcement agencies, by the applicant and the
 279 examination of police records by the board pursuant to s.
 280 455.213(10).

281 (b) Such other investigation of the individual as the
 282 board may by rule deem necessary.

283 (2) The board may establish by rule a fee to recover the
 284 costs charged by the applicable law enforcement agencies for
 285 submission and processing of the fingerprint cards.

286 Section 3. Section 470.0085, Florida Statutes, is amended
 287 to read:

288 470.0085 Establishment of embalmer apprentice
 289 program.--The board may adopt rules establishing an embalmer
 290 apprentice program. An embalmer apprentice may perform only
 291 those tasks, functions, and duties relating to embalming which
 292 are performed under the direct supervision of a licensed
 293 embalmer. An embalmer apprentice shall be eligible to serve in
 294 an apprentice capacity for a period not to exceed 3 years ~~1 year~~
 295 as may be determined by board rule or for a period not to exceed
 296 5 ~~3~~ years if the apprentice is enrolled in and attending a

HB 0253

2004

297 course in mortuary science or funeral service education at any
 298 mortuary college or funeral service education college or school.
 299 An embalmer apprentice shall be registered with the board upon
 300 payment of a registration fee not to exceed \$50.

301 Section 4. Subsections (2), (5), and (9) of section
 302 470.021, Florida Statutes, are amended to read:

303 470.021 Direct disposal establishment; standards and
 304 location; registration.--

305 (2) The practice of direct disposition must be engaged in
 306 at a fixed location of at least 625 interior contiguous square
 307 feet and must maintain or make arrangements for suitable
 308 capacity for the refrigeration and storage of dead human bodies
 309 handled and stored by the establishment. No person may open or
 310 maintain an establishment at which to engage in or hold himself
 311 or herself out as engaging in the practice of direct disposition
 312 unless such establishment is registered with the board. Any
 313 change in location of such establishment shall be reported
 314 promptly to the board as prescribed by rule of the board.

315 (5)(a) Each direct disposal establishment shall at all
 316 times be subject to the inspection of all its buildings,
 317 grounds, and vehicles used in the conduct of its business, by
 318 the department, the Department of Health, and local government
 319 inspectors and by their agents. The board shall adopt rules
 320 which establish such inspection requirements.

321 (b) The board shall set by rule an annual inspection fee
 322 not to exceed \$100, payable upon application for registration
 323 and upon each renewal of such registration.

324 (c) Each cinerator facility shall be inspected prior to
 325 the issuance and renewal of its license and shall:

326 1. Maintain one or more retorts for the reduction of dead

HB 0253

2004

327 human bodies.

328 2. Maintain refrigeration that satisfies the standards set
 329 by the Department of Health and that contains a sufficient
 330 number of shelves for the average daily number of bodies stored,
 331 if unembalmed bodies are kept at the site.

332 3. Maintain sufficient pollution control equipment to
 333 comply with requirements of the Department of Environmental
 334 Protection.

335 4. Either have on site or immediately available sufficient
 336 sealed containers of a type required for the transportation of
 337 bodies.

338 5. Maintain the premises in a clean and sanitary
 339 condition.

340 6. Have appropriate Department of Environmental Protection
 341 permits.

342 7. Retain all signed contracts for a period of at least 2
 343 years.

344 (9) Each registered direct disposal establishment shall
 345 have one full-time registered direct disposer or licensed
 346 funeral director acting as a direct disposer in charge and
 347 reasonably available to the public during normal business hours
 348 for that establishment. Such person may be in charge of only one
 349 facility. The board shall establish by rule the responsibilities
 350 of the direct disposer in charge, including, but not limited to,
 351 the day-to-day operations of the establishment, to ensure
 352 compliance with this chapter.

353 Section 5. Subsections (1) and (7) of section 470.024,
 354 Florida Statutes, are amended to read:

355 470.024 Funeral establishment; licensure.--

HB 0253

2004

356 (1) A funeral establishment shall be a place at a specific
 357 street address or location consisting of at least 1,250
 358 contiguous interior square feet and must maintain or make
 359 arrangements for ~~either~~ suitable capacity for the refrigeration
 360 and storage of dead human bodies handled and stored by the
 361 establishment and ~~or~~ a preparation room equipped with necessary
 362 ventilation and drainage and containing necessary instruments
 363 for embalming dead human bodies or must make arrangements for a
 364 preparation room as established by board rule.

365 (7) Each licensed funeral establishment shall have one
 366 full-time funeral director in charge and shall have a licensed
 367 funeral director reasonably available to the public during
 368 normal business hours for that establishment. The full-time
 369 funeral director in charge must have an active license and may
 370 not be the full-time funeral director in charge of any other
 371 funeral establishment or of any other direct disposal
 372 establishment. The board shall establish by rule the
 373 responsibilities of the funeral director in charge, including,
 374 but not limited to, the day-to-day operations of the
 375 establishment, to ensure compliance with this chapter.

376 Section 6. Subsections (6), (13), (14), and (15) of
 377 section 470.025, Florida Statutes, are amended, and subsection
 378 (16) is added to said section, to read:

379 470.025 Cinerator facility; licensure.--

380 (6) No more than one dead human body may be placed in a
 381 retort at one time, unless written permission has been received
 382 from a legally authorized person for each body. The operator of
 383 a cinerator facility shall be entitled to rely on the permission
 384 of a legally authorized person to cremate more than one human
 385 body.

HB 0253

2004

386 (13) A cinerator facility shall not place human remains or
387 body parts in a retort or cremation chamber unless the human
388 remains are in an alternative container, cremation container, or
389 casket. Human remains may be transported in a cremation
390 container or stored if they are completely covered, and at all
391 times treated with dignity and respect. Cremation may include
392 the processing and pulverization of bone fragments. Cremated
393 remains may be placed in a temporary container following
394 cremation. None of the provisions contained in this subsection
395 require the purchase of a casket for cremation. This subsection
396 applies to at-need contracts and preneed contracts entered into
397 pursuant to chapter 497 after June 1, 1996.

398 (14) Each cinerator facility shall ensure that all
399 alternative containers, cremation containers, or caskets used
400 for cremation contain no amount of chlorinated plastics not
401 authorized by the Department of Environmental Protection, that
402 they also are composed of readily combustible materials suitable
403 for cremation, able to be closed to provide a complete covering
404 for the human remains, resistant to leakage or spillage, rigid
405 enough for handling with ease, and able to provide for the
406 health, safety, and personal integrity of the public and
407 crematory personnel.

408 (15) The board shall adopt, by rule, criteria for
409 acceptable cremation and alternative containers.

410 (16) The operator of a cinerator facility shall establish
411 written procedures for the removal of remains and bone
412 fragments, to the extent possible, resulting from the cremation
413 of a human body and the postcremation processing, shipping,
414 packing, or identifying of those remains. If an operator follows
415 these procedures, the operator is not liable for the

HB 0253

2004

416 unintentional or incidental commingling of human remains and
 417 bone fragments resulting from more than one cremation cycle or
 418 from postcremation processing, shipping, packing, or identifying
 419 of those remains. A copy of the procedures shall be available,
 420 upon request, to the department and legally authorized persons.

421 Section 7. Section 470.0255, Florida Statutes, is amended
 422 to read:

423 470.0255 Cremation; procedure required.--

424 (1) At the time of the arrangement for a cremation
 425 performed by any person licensed pursuant to this chapter, the
 426 person contracting for cremation services shall be required to
 427 designate his or her intentions with respect to the disposition
 428 of the cremated remains of the deceased in a signed declaration
 429 of intent which shall be provided by and retained by the funeral
 430 or direct disposal establishment. A cremation may not be
 431 performed until a legally authorized person gives written
 432 authorization for such cremation. The cremation must be
 433 performed within 48 hours after a specified time which has been
 434 agreed to in writing by the person authorizing the cremation.

435 (2) With respect to any person who intends to provide for
 436 the cremation of the deceased, if, after a period of 120 days
 437 from the time of cremation the cremated remains have not been
 438 claimed, the funeral or direct disposal establishment may
 439 dispose of the cremated remains. Such disposal shall include
 440 scattering them at sea or placing them in a licensed cemetery
 441 scatter garden or pond or in a church columbarium or otherwise
 442 disposing of the remains as provided by rule of the department
 443 or board.

444 (3) Pursuant to the request of a legally authorized person
 445 and incidental to final disposition, cremation may be performed

HB 0253

2004

446 on parts of human remains. This subsection does not authorize
 447 the cremation of body parts as defined in s. 470.002.

448 Section 8. Section 470.028, Florida Statutes, is amended
 449 to read:

450 470.028 Preneed sales; registration of agents; control and
 451 supervision of agents.--

452 (1) All sales of preneed funeral service contracts or
 453 direct disposition contracts shall be made pursuant to chapter
 454 497.

455 (2) No person may act as an agent for a funeral
 456 establishment or direct disposal establishment with respect to
 457 the sale of preneed contracts unless such person is registered
 458 pursuant to chapter 497.

459 (3) Each licensee or registrant shall be subject to
 460 discipline if his or her agent violates any provision of this
 461 chapter applicable to such licensee or registrant as established
 462 by board rule.

463 (4)(a) The funeral director in charge of a funeral
 464 establishment shall be responsible for the control and
 465 activities of the establishment's preneed agents.

466 (b) The direct disposer in charge or a funeral director
 467 acting as a direct disposer in charge of a direct disposal
 468 establishment shall be responsible for the control and
 469 activities of the establishment's preneed agents.

470 Section 9. Subsection (1) of section 470.029, Florida
 471 Statutes, is amended to read:

472 470.029 Reports of cases embalmed and bodies handled.--

473 (1) Each funeral establishment, direct disposal
 474 establishment, cinerator facility, and centralized embalming
 475 facility shall report on a form prescribed and furnished by the

HB 0253

2004

476 department the name of the deceased and such other information
 477 as may be required with respect to each dead human body embalmed
 478 or otherwise handled by the establishment or facility. Such
 479 forms shall be signed by the embalmer who performs the
 480 embalming, if the body is embalmed, and the funeral director in
 481 charge of the establishment or facility or by the direct
 482 disposer who disposes of the body. The board shall prescribe by
 483 rule the procedures in submitting such documentation. Reports
 484 required by this subsection shall be filed by the 20th ~~10th~~ day
 485 of each month for final dispositions handled the preceding
 486 month.

487 Section 10. Section 470.031, Florida Statutes, is amended
 488 to read:

489 470.031 Prohibitions; penalties.--

490 (1) No person may:

491 (a) Practice funeral directing, embalming, or direct
 492 disposition unless the person holds an active license or
 493 registration under this chapter.

494 (b) Use the name or title "funeral director," "embalmer,"
 495 or "direct disposer" when the person has not been licensed or
 496 registered pursuant to this chapter.

497 (c) Represent as his or her own the license or
 498 registration of another.

499 (d) Give false or forged evidence to the board, a member
 500 thereof, or the department for the purpose of obtaining a
 501 license or registration.

502 (e) Use or attempt to use a license or registration which
 503 has been suspended or revoked.

504 (f) Knowingly employ unlicensed persons in the practice of
 505 funeral directing, embalming, or direct disposing.

HB 0253

2004

506 (g) Knowingly conceal information relative to violations
507 of this chapter.

508 (h) Operate an unlicensed cinerator facility.

509 (i) Except as provided for in chapter 497, guarantee the
510 price of goods and services at a future date.

511 (2) Any person who violates the provisions of this section
512 commits a misdemeanor of the second degree, punishable as
513 provided in s. 775.082 or s. 775.083.

514 Section 11. Section 470.0355, Florida Statutes, is amended
515 to read:

516 470.0355 Identification of human remains.--

517 (1) PRIOR TO FINAL DISPOSITION.--

518 (a)(1) The licensee or registrant in charge of the final
519 disposition of dead human remains shall, prior to final
520 disposition of such dead human remains, affix on the ankle or
521 wrist of the deceased, and ~~or~~ in the casket or alternative
522 container or cremation container, proper identification of the
523 dead human remains. The identification or tag shall be encased
524 in or consist of durable and long-lasting material containing
525 the name, date of birth, and date of death, ~~and social security~~
526 ~~number~~ of the deceased, if available. If the dead human remains
527 are cremated, proper identification shall be placed in the
528 container or urn containing the remains.

529 (b)(2) Any licensee or registrant responsible for removal
530 of dead human remains to any establishment, facility, or
531 location shall ensure that the remains are identified by a tag
532 or other means of identification that is affixed to the ankle or
533 wrist of the deceased at the time the remains are removed from
534 the place of death or other location.

HB 0253

2004

535 (c)(3) Any licensee or registrant may rely on the
 536 representation of a legally authorized person to establish the
 537 identity of dead human remains.

538 (2) IN UNLICENSED CEMETERIES.--Effective October 1, 2004,
 539 the identification of human remains interred in an unlicensed
 540 cemetery shall be the responsibility of the licensed funeral
 541 establishment in charge of the funeral arrangements for the
 542 deceased person. The licensed funeral establishment in charge of
 543 the funeral arrangements for the interment in an unlicensed
 544 cemetery of human remains shall place on the outer burial
 545 container, cremation interment container, or other container or
 546 on the inside of a crypt or niche a tag or permanent identifying
 547 mark containing the name of the decedent and the date of death,
 548 if available. The materials and locations of the tag or mark
 549 shall be more specifically described by the rule of the board.

550 (3) IN LICENSED CEMETERIES.--Effective October 1, 2004,
 551 human remains at licensed cemeteries shall be identified as
 552 follows:

553 (a) Each licensed cemetery shall place on the outer burial
 554 container, cremation interment container, or other container or
 555 on the inside of a crypt or niche a tag or permanent identifying
 556 marker containing the name of the decedent and the date of
 557 death, if available. The materials and the location of the tag
 558 or marker shall be more specifically described by rule of the
 559 board.

560 (b) Each licensed cemetery may rely entirely on the
 561 identity stated on the burial transit permit or on the
 562 identification supplied by a person licensed under chapter 470
 563 to establish the identity of the dead human remains delivered by
 564 such person for burial and shall not be liable for any

HB 0253

2004

565 differences between the identity shown on the burial transit
 566 permit or identification and the actual identity of the dead
 567 human remains delivered by such person and buried in the
 568 cemetery.

569 (4) DIRECT DISPOSAL ESTABLISHMENTS.--Direct disposal
 570 establishments shall establish a system of identification of
 571 human remains received which shall be designed to track the
 572 identity of the remains from the time of receipt until delivery
 573 of the remains to the authorized persons. This is in addition to
 574 the requirements for identification of human remains set forth
 575 in subsection (1). A copy of the identification procedures shall
 576 be available, upon request, to the department and legally
 577 authorized persons.

578 Section 12. Paragraph (a) of subsection (1) of section
 579 470.036, Florida Statutes, is reenacted, and subsection (2) of
 580 said section is amended, to read:

581 470.036 Disciplinary proceedings.--

582 (1) The following acts constitute grounds for which the
 583 disciplinary actions in subsection (2) may be taken:

584 (a) Violation of any provision of s. 455.227(1) or s.
 585 470.031.

586 (2) When the board finds any person ~~licensee or registrant~~
 587 guilty of any of the grounds set forth in subsection (1), it may
 588 enter an order imposing one or more of the following penalties:

589 (a) Denial of an application for licensure or
 590 registration.

591 (b) Permanent revocation or suspension of a license or
 592 registration.

593 (c) Imposition of an administrative fine not to exceed
 594 \$5,000 for each count or separate offense.

HB 0253

2004

595 (d) Issuance of a reprimand.

596 (e) Placement of the licensee or registrant on probation
 597 for a period of time and subject to such conditions as the board
 598 may specify, including requiring the licensee or registrant to
 599 attend continuing education courses or to work under the
 600 supervision of another licensee.

601 (f) Restriction of the authorized scope of practice.

602 (g) Assessment of costs associated with investigation and
 603 prosecution.

604 Section 13. Section 497.005, Florida Statutes, is amended
 605 to read:

606 497.005 Definitions.--As used in this chapter:

607 (1) "At-need solicitation" means any uninvited contact by
 608 a licensee or her or his agent for the purpose of the sale of
 609 burial services or merchandise to the family or next of kin of a
 610 person after her or his death has occurred.

611 (2) "Bank of belowground crypts" means any construction
 612 unit of belowground crypts which is acceptable to the department
 613 and which a cemetery uses to initiate its belowground crypt
 614 program or to add to existing belowground crypt structures.

615 (3) "Belowground crypts" consist of interment space in
 616 preplaced chambers, either side by side or multiple depth,
 617 covered by earth and sod and known also as "lawn crypts,"
 618 "westminsters," or "turf-top crypts."

619 (4) "Board" means the Board of Funeral and Cemetery
 620 Services.

621 (5) "Burial merchandise," "funeral merchandise," or
 622 "merchandise" means any personal property offered or sold by any
 623 person for use in connection with the final disposition,

HB 0253

2004

624 memorialization, interment, entombment, or inurnment of human
625 remains.

626 (6) "Burial right" means the right to use a grave space,
627 mausoleum, columbarium, ossuary, or scattering garden for the
628 interment, entombment, inurnment, or other disposition of human
629 remains.

630 (7) "Burial service," "funeral service," or "service"
631 means any service offered or provided by any person in
632 connection with the final disposition, memorialization,
633 interment, entombment, or inurnment of human remains.

634 (8) "Care and maintenance" means the perpetual process of
635 keeping a cemetery and its lots, graves, grounds, landscaping,
636 roads, paths, parking lots, fences, mausoleums, columbaria,
637 vaults, crypts, utilities, and other improvements, structures,
638 and embellishments in a well-cared-for and dignified condition,
639 so that the cemetery does not become a nuisance or place of
640 reproach and desolation in the community. As specified in the
641 rules of the board, "care and maintenance" may include, but is
642 not limited to, any or all of the following activities: mowing
643 the grass at reasonable intervals; raking and cleaning the grave
644 spaces and adjacent areas; pruning of shrubs and trees;
645 suppression of weeds and exotic flora; and maintenance, upkeep,
646 and repair of drains, water lines, roads, buildings, and other
647 improvements. "Care and maintenance" may include, but is not
648 limited to, reasonable overhead expenses necessary for such
649 purposes, including maintenance of machinery, tools, and
650 equipment used for such purposes. "Care and maintenance" may
651 also include repair or restoration of improvements necessary or
652 desirable as a result of wear, deterioration, accident, damage,
653 or destruction. "Care and maintenance" does not include expenses

HB 0253

2004

654 for the construction and development of new grave spaces or
 655 interment structures to be sold to the public.

656 (9) "Casket" means a rigid container which is designed for
 657 the encasement of human remains, and which is usually
 658 constructed of wood or metal, ornamented, and lined with fabric,
 659 and which may or may not be combustible.

660 (10) "Cemetery" means a place dedicated to and used or
 661 intended to be used for the permanent interment of human
 662 remains. A cemetery may contain land or earth interment;
 663 mausoleum, vault, or crypt interment; a columbarium, ossuary,
 664 scattering garden, or other structure or place used or intended
 665 to be used for the interment or disposition of cremated human
 666 remains; or any combination of one or more of such structures or
 667 places.

668 (11) "Cemetery company" means any legal entity that owns
 669 or controls cemetery lands or property.

670 (12) "Certificateholder" or "licensee" means the person or
 671 entity that is authorized under this chapter to sell preneed
 672 funeral or burial services, preneed funeral or burial
 673 merchandise, or burial rights. Each term shall include the
 674 other, as applicable, as the context requires. For the purposes
 675 of chapter 120, all certificateholders, licensees, and
 676 registrants shall be considered licensees.

677 (13) "Columbarium" means a structure or building which is
 678 substantially exposed above the ground and which is intended to
 679 be used for the inurnment of cremated human remains.

680 (14) "Common business enterprise" means a group of two or
 681 more business entities that share common ownership in excess of
 682 50 percent.

HB 0253

2004

683 (15) "Cremation" includes any mechanical or thermal
 684 process whereby a dead human body is reduced to ashes. Cremation
 685 also includes any other mechanical or thermal process whereby
 686 human remains are pulverized, burned, reinterred, or otherwise
 687 further reduced in size or quantity.

688 (16) "Cremation interment container" means a rigid outer
 689 container that, subject to a cemetery's rules and regulations,
 690 is composed of concrete, steel, fiberglass, or some similar
 691 material in which an urn is placed prior to being interred in
 692 the ground and which is designed to support the earth above the
 693 urn.

694 ~~(17)~~(16) "Department" means the Department of Financial
 695 Services.

696 ~~(18)~~(17) "Direct disposer" means any person who is
 697 registered in this state to practice direct disposition pursuant
 698 to the provisions of chapter 470.

699 ~~(19)~~(18) "Final disposition" means the final disposal of a
 700 dead human body whether by interment, entombment, burial at sea,
 701 cremation, or any other means and includes, but is not limited
 702 to, any other disposition of remains for which a segregated
 703 charge is imposed.

704 ~~(20)~~(19) "Funeral director" means any person licensed in
 705 this state to practice funeral directing pursuant to the
 706 provisions of chapter 470.

707 ~~(21)~~(20) "Grave space" means a space of ground in a
 708 cemetery intended to be used for the interment in the ground of
 709 human remains.

710 ~~(22)~~(21) "Human remains" means the bodies of deceased
 711 persons and includes bodies in any stage of decomposition and
 712 cremated remains.

HB 0253

2004

713 (23)~~(22)~~ "Mausoleum" means a structure or building which
 714 is substantially exposed above the ground and which is intended
 715 to be used for the entombment of human remains.

716 (24)~~(23)~~ "Mausoleum section" means any construction unit
 717 of a mausoleum which is acceptable to the department and which a
 718 cemetery uses to initiate its mausoleum program or to add to its
 719 existing mausoleum structures.

720 (25)~~(24)~~ "Monument" means any product used for identifying
 721 a grave site and cemetery memorials of all types, including
 722 monuments, markers, and vases.

723 (26)~~(25)~~ "Monument establishment" means a facility that
 724 operates independently of a cemetery or funeral establishment
 725 and that offers to sell monuments or monument services to the
 726 public for placement in a cemetery.

727 (27)~~(26)~~ "Net assets" means the amount by which the total
 728 assets of a certificateholder, excluding goodwill, franchises,
 729 customer lists, patents, trademarks, and receivables from or
 730 advances to officers, directors, employees, salespersons, and
 731 affiliated companies, exceed total liabilities of the
 732 certificateholder. For purposes of this definition, the term
 733 "total liabilities" does not include the capital stock, paid-in
 734 capital, or retained earnings of the certificateholder.

735 (28)~~(27)~~ "Net worth" means total assets minus total
 736 liabilities pursuant to generally accepted accounting
 737 principles.

738 (29) "Niche" means a compartment or cubicle for the
 739 memorialization or permanent placement of an urn containing
 740 cremated remains.

741 (30)~~(28)~~ "Ossuary" means a receptacle used for the
 742 communal placement of cremated human remains without benefit of

HB 0253

2004

743 an urn or any other container in which remains will be
 744 commingled with other cremated human remains and are
 745 nonrecoverable. It may or may not include memorialization.

746 ~~(31)(29)~~ "Outer burial container" means an enclosure into
 747 which a casket is placed and includes, but is not limited to,
 748 vaults made of concrete, steel, fiberglass, or copper; sectional
 749 concrete enclosures; crypts; and wooden enclosures.

750 ~~(32)(30)~~ "Preneed contract" means any arrangement or
 751 method, of which the provider of funeral merchandise or services
 752 has actual knowledge, whereby any person agrees to furnish
 753 funeral merchandise or service in the future.

754 ~~(33)(31)~~ "Religious institution" means an organization
 755 formed primarily for religious purposes which has qualified for
 756 exemption from federal income tax as an exempt organization
 757 under the provisions of s. 501(c)(3) of the Internal Revenue
 758 Code of 1986, as amended.

759 ~~(34)(32)~~ "Scattering garden" means a location set aside,
 760 within a cemetery, which is used for the spreading or
 761 broadcasting of cremated remains that have been removed from
 762 their container and can be mixed with or placed on top of the
 763 soil or ground cover or buried in an underground receptacle on a
 764 commingled basis and that are nonrecoverable. It may or may not
 765 include memorialization.

766 ~~(35)(33)~~ "Servicing agent" means any person acting as an
 767 independent contractor whose fiduciary responsibility is to
 768 assist both the trustee and certificateholder hereunder in
 769 administrating their responsibilities pursuant to this chapter.

770 ~~(36)(34)~~ "Solicitation" means any communication which
 771 directly or implicitly requests an immediate oral response from
 772 the recipient.

HB 0253

2004

773 (37)~~(35)~~ "Statutory accounting" means generally accepted
 774 accounting principles, except as modified by this chapter.

775 (38) "Urn" means a receptacle designed to permanently
 776 encase cremated remains.

777 Section 14. Section 497.306, Florida Statutes, is created
 778 to read:

779 497.306 Standards for grave spaces.--

780 (1) A standard adult grave space shall measure at least 42
 781 inches in width and 96 inches in length, except for preinstalled
 782 vaults in designated areas. For interments, except cremated
 783 remains, the covering soil shall measure no less than 12 inches
 784 from the top of the outer burial container, unless such level of
 785 soil is not physically possible. In any interment, the family or
 786 next of kin may waive the 12-inch coverage minimum.

787 (2)(a) Effective October 1, 2004, and prior to the sale of
 788 grave spaces in any undeveloped areas of a licensed cemetery,
 789 the cemetery company shall prepare a map documenting the
 790 establishment of recoverable internal survey reference markers
 791 installed by the cemetery company no more than 100 feet apart in
 792 the areas planned for development. The internal reference
 793 markers shall be established with reference to survey markers
 794 that are no more than 200 feet apart which have been set by a
 795 surveyor and mapper licensed under chapter 472 and documented in
 796 a certified land survey. Both the map and the certified land
 797 survey shall be maintained by the cemetery company and shall be
 798 made available upon request to the department or members of the
 799 public.

800 (b) The map of the area proposed to be developed shall
 801 show:

802 1. The number of grave spaces available for sale.

HB 0253

2004

- 803 2. The location of each grave space.
- 804 3. The number designation assigned to each grave space.
- 805 4. The dimensions of a standard adult grave space.

806 (3) Adult grave spaces established prior to October 1,
 807 2004, are not required to meet the standards established under
 808 this section for the dimensions or separation of grave spaces.

809 Section 15. Section 497.307, Florida Statutes, is created
 810 to read:

811 497.307 Identification of human remains in licensed
 812 cemeteries.--On and after October 1, 2004, human remains
 813 interred, entombed, scattered, or otherwise placed for final
 814 rest at licensed cemeteries shall be identified as follows:

815 (1) Each licensed cemetery shall place on the outer burial
 816 container, cremation interment container, or other container, or
 817 on the inside of a crypt or niche, a tag or a permanent
 818 identifying marker containing the name of the decedent and the
 819 date of death, if available. The materials and location of the
 820 tag or marker shall be more specifically described by rule of
 821 the board.

822 (2) Each licensed cemetery may rely entirely on the
 823 identity stated on the burial transit permit or on the
 824 identification supplied by a person licensed under chapter 470
 825 to establish the identity of the dead human remains delivered by
 826 such person for burial and shall not be liable for any
 827 differences between the identity shown on the burial transit
 828 permit or other identification and the actual identity of the
 829 dead human remains delivered by such person and buried in the
 830 cemetery.

831 Section 16. Subsections (1) and (4) of section 497.405,
 832 Florida Statutes, are amended to read:

HB 0253

2004

833 497.405 Certificate of authority required.--

834 (1)(a) No person, including any cemetery exempt under s.
 835 497.003, may sell, advertise to sell, or make an arrangement for
 836 a preneed contract without first having a valid certificate of
 837 authority.

838 (b) No person, including any cemetery exempt under s.
 839 497.003, may sell, advertise to sell, or make an arrangement for
 840 services, merchandise, or burial rights on a preneed basis
 841 unless such person is authorized pursuant to this chapter to
 842 provide such services, merchandise, or burial rights on an at-
 843 need basis.

844 (4) The provisions of this section do not apply to
 845 religious-institution-owned cemeteries exempt under s.
 846 497.003(1)(d), in counties with a population of at least 960,000
 847 persons on July 1, 1996, with respect to the sale to the
 848 religious institution's members and their families of interment
 849 rights, mausoleums, crypts, cremation niches, cremation
 850 interment containers, vaults, liners, urns, memorials, vases,
 851 foundations, memorial bases, floral arrangements, monuments,
 852 markers, engraving, and the opening and closing of interment
 853 rights, mausoleums, crypts, ~~and~~ cremation niches, and cremation
 854 interment containers, if such cemeteries have engaged in the
 855 sale of preneed contracts prior to October 1, 1993, and maintain
 856 a positive net worth at the end of each fiscal year of the
 857 cemetery.

858 Section 17. Subsection (4) of section 497.419, Florida
 859 Statutes, is amended to read:

860 497.419 Cancellation of, or default on, preneed
 861 contracts.--

HB 0253

2004

862 (4) Each certificateholder shall provide in conspicuous
 863 type in its contract that the contract purchaser may cancel the
 864 contract and receive a full refund within 30 days after ~~of~~ the
 865 date of execution of the contract, except for those amounts
 866 allocable to any burial rights, merchandise, or services that
 867 have been used by the purchaser. The failure to make such
 868 provision shall not impair the contract purchaser's right to
 869 cancellation and refund as provided in this section.

870 Section 18. Subsection (4) of section 497.436, Florida
 871 Statutes, is amended to read:

872 497.436 Inactive and revoked certificateholders.--

873 (4) Upon receipt of the notice, in order to protect the
 874 contract purchaser, the board may:

875 (a) ~~shall~~ Review the certificateholder's:

876 1. ~~(a)~~ Trust funds.

877 2. ~~(b)~~ Trust agreements.

878 3. ~~(c)~~ Evidence of all outstanding preneed contracts.

879 (b) Perform other procedures the board deems necessary.

880 Section 19. This act shall take effect October 1, 2004.