

By Senator Harrell

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1 A bill to be entitled
2 An act relating to animal cremation; creating s.
3 501.961, F.S.; providing a short title; defining
4 terms; requiring a provider of companion animal
5 cremation services to provide certain individuals and
6 entities with a written description of the services
7 that the provider offers; requiring the written
8 description to include a detailed explanation of each
9 service offered; providing that the written
10 description may not contain false or misleading
11 information; requiring certain entities that make
12 referrals to providers or accept deceased companion
13 animals for cremation through a provider to make the
14 provider's written description of services available
15 to owners or their representatives; requiring certain
16 providers to include a certification with the returned
17 animal's remains; providing requirements for the
18 certification; providing that certain acts are
19 unlawful; providing civil penalties for initial and
20 subsequent offenses; providing circumstances under
21 which a person commits an unfair or deceptive act or
22 practice or engages in an unfair method of competition
23 in violation of certain provisions; providing for a
24 private right of action; providing powers of the
25 Department of Agriculture and Consumer Services;
26 requiring the department to adopt rules; providing an
27 effective date.

28
29 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 501.961, Florida Statutes, is created to read:

501.961 Animal cremation.—

(1) SHORT TITLE.—This section may be cited as “Sevilla’s Law.”

(2) DEFINITIONS.—As used in this section, the term:

(a) “Commingling of significant amounts of cremation remains from different animals” means the commingling of remains such that specific cremation remains cannot be attributed to a particular animal or the cremation remains attributed to one companion animal contain more than 1 percent by weight of cremation remains from one or more other companion animals. The term does not include the presence, in the cremation remains of a companion animal, of the remains of any creature that was contained within the body of that animal at the time of cremation, including parasites, insects, food, or creatures eaten by that companion animal.

(b) “Communal cremation” means a cremation process in which companion animals are cremated together without effective partitions or separation during the cremation process such that the commingling of significant amounts of cremation remains from different companion animals is likely or certain to occur.

(c) “Companion animal” or “animal” means a deceased animal that had a companion relationship or a pet relationship with its owner at the time of the animal’s death.

(d) “Cremation remains” means the material remaining after the cremation of an animal, which may include ashes, skeletal remains, and other residue resulting from the incineration

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59 process, and which may be pulverized or otherwise processed by
60 the provider of cremation services.

61 (e) "Department" means the Department of Agriculture and
62 Consumer Services.

63 (f) "Individually partitioned cremation" means a cremation
64 process in which the commingling of significant amounts of
65 cremation remains from different companion animals is unlikely
66 to occur and:

67 1. Only one companion animal at a time is cremated in the
68 incinerator; or

69 2. More than one companion animal is cremated in the
70 incinerator at the same time, but each of the animals is
71 completely separated from the others by partitions during the
72 cremation process.

73 (g) "On a regular basis" means that the person or business
74 entity referring animal owners or bringing business to a
75 provider:

76 1. Has an ongoing contractual or agency relationship with
77 the provider relating to the cremation of companion animals;

78 2. Regularly receives compensation or consideration from
79 the provider or animal owners relating to the cremation of
80 companion animals by the provider; or

81 3. Refers or brings to the provider the business of more
82 than five animal owners in an average month.

83 (h) "Provider" means a person, company, or other entity
84 engaging in the business of cremating deceased companion animals
85 in this state.

86 (3) WRITTEN DESCRIPTION OF SERVICES.-

87 (a) A provider of companion animal cremation services shall

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88 provide, without charge, to all of the following a written
89 description of the services that the provider offers:

90 1. The owner of each deceased animal for whom the provider
91 agrees to provide cremation services, or the person making
92 cremation arrangements on the owner's behalf.

93 2. All veterinarians, pet shops, and other persons or
94 entities known to the provider who refer animal owners or bring
95 deceased animals to the provider on a regular basis.

96 3. The department.

97 4. Any other person, upon request.

98 (b) The written description of services:

99 1. May be in the form of a brochure;

100 2. Must be provided in quantities sufficient to allow its
101 distribution to animal owners whose business is being referred
102 or brought to the provider;

103 3. Must include a detailed explanation of each service
104 offered for each type or level of cremation service offered. If
105 any part of the deceased companion animal will be removed, used,
106 or sold by the provider before or after the cremation, the
107 written description of services must disclose that fact; and

108 4. May not include false or misleading information. A
109 written description of services is misleading if it:

110 a. Fails to include a detailed explanation of the cremation
111 services offered or fails to include, for each type or level of
112 cremation service offered, any of the disclosures required under
113 this subsection;

114 b. Uses the terms "private" or "individual" with respect to
115 any communal cremation procedure or with respect to an
116 individually partitioned cremation procedure that will cremate

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117 more than one companion animal at the same time;

118 c. Uses the terms "individually partitioned" or "separate"
119 with respect to a communal cremation process; or

120 d. Includes any text, picture, illustration, or combination
121 thereof, or uses any layout, typography, or color scheme, which
122 reasonably causes confusion about the nature of the services to
123 be provided or obstructs certain parts of the written
124 description of services.

125 (4) PERSONS REFERRING OR BRINGING BUSINESS TO A PROVIDER.—

126 (a) A veterinarian, pet shop, or another person who refers
127 owners of deceased animals, or persons making arrangements on an
128 owner's behalf, to a provider on a regular basis shall, at the
129 time of the referral, make a copy of the provider's written
130 description of services available to such person.

131 (b) A veterinarian, pet shop, or other person or business
132 entity that accepts, on a regular basis, deceased companion
133 animals for cremation through services obtained from a provider
134 shall make a copy of the provider's written description of
135 services available to each animal owner, or person making
136 arrangements on the owner's behalf, from whom a deceased
137 companion animal is accepted.

138 (c) A copy of the written description of services may be
139 given to the animal owner, or the person making arrangements on
140 the owner's behalf, at the time the services are offered.

141 (d) For purposes of this subsection, publishing or
142 otherwise disseminating advertising for a provider of companion
143 animal cremation services does not, in and of itself, constitute
144 referring or bringing business to that provider.

145 (5) CERTIFICATION; PENALTY FOR FALSE CERTIFICATION.—If a

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146 provider's services include the return of the cremation remains
147 of the cremated animal, the provider shall include a
148 certification along with the returned cremation remains. The
149 certification must declare, to the best of the provider's
150 knowledge and belief that, except as otherwise specifically
151 indicated on the certificate, the cremation and any other
152 services specified were provided in accordance with the
153 representations of the provider in the applicable portions of
154 the provider's written description of services.

155 (6) UNLAWFUL ACTS.—It is unlawful:

156 (a) For a provider to prepare or distribute a written
157 description of services that the provider knows or should know
158 to be false or misleading. A first offense is punishable by a
159 fine of at least \$1,001 but not more than \$1,500, and each
160 subsequent offense is punishable by a fine of at least \$2,000
161 but not more than \$2,500.

162 (b) To intentionally fail to prepare or distribute a
163 written description of services as required by this section. A
164 first offense is punishable by a fine of at least \$1,001 but not
165 more than \$1,500, and each subsequent offense is punishable by a
166 fine of at least \$2,000 but not more than \$2,500.

167 (c) To knowingly make a false certification under
168 subsection (4). A first offense is punishable by a fine of at
169 least \$1,001 but not more than \$1,500, and each subsequent
170 offense is punishable by a fine of at least \$2,000 but not more
171 than \$2,500.

172 (7) VIOLATION AS A DECEPTIVE ACT OR PRACTICE OR UNFAIR
173 TRADE PRACTICE.—A person who commits an act or practice declared
174 to be unlawful under subsection (6) or who violates this section

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175 commits an unfair or deceptive act or practice or unfair method
176 of competition in violation of part II of chapter 501 and is
177 subject to the penalties and remedies provided therein.

178 (8) PRIVATE RIGHT OF ACTION.—In addition to any other
179 penalties or remedies provided by law, a person who is injured
180 by a violation of this act may bring a civil action to recover
181 damages or punitive damages, including costs, court costs, and
182 attorney fees. This act may not be construed to limit any right
183 or remedy provided under law.

184 (9) POWERS OF THE DEPARTMENT.—

185 (a) The department may conduct an investigation of any
186 person or provider if there is an appearance, either upon
187 complaint or otherwise, that a violation of this section or of
188 any rule adopted or order issued pursuant to this section has
189 been committed or is about to be committed.

190 (b) The department may issue and serve subpoenas and
191 subpoenas duces tecum to compel the attendance of witnesses and
192 the production of all books, accounts, records, and other
193 documents and materials relevant to an examination or
194 investigation. The department, or its duly authorized
195 representative, may administer oaths and affirmations to any
196 person.

197 (c) The department may enter an order imposing one or more
198 of the penalties set forth in subsection (6) if the department
199 finds that a provider, person or business entity that regularly
200 refers animal owners to a provider, or an agent, a servant, or
201 an employee thereof, has:

202 1. Violated or is operating in violation of this section or
203 department rule or order;

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204 2. Refused or failed, or any of its principal officers has
205 refused or failed, after notice, to produce any records of such
206 organization or to disclose any information required to be
207 disclosed under this section or department rules; or

208 3. Made a material false statement in response to any
209 department request or investigation.

210 (d) Upon a finding as set forth in paragraph (c), the
211 department may enter an order that does one or more of the
212 following:

213 1. Issues a notice of noncompliance pursuant to s. 120.695.

214 2. Issues a cease and desist order that directs that the
215 person cease and desist specified activities.

216 3. Imposes an administrative fine in the Class II category
217 pursuant to s. 570.971 for each act or omission.

218 4. Imposes an administrative fine in the Class III category
219 pursuant to s. 570.971 for each act of omission that involves
220 fraud or deception.

221 (e) Except as otherwise provided in this section, the
222 administrative proceedings that could result in the entry of an
223 order imposing any of the penalties specified in paragraph (d)
224 are governed by chapter 120.

225 (f) All fines collected by the department under paragraph
226 (d) must be paid into the General Inspection Trust Fund.

227 (10) RULEMAKING AUTHORITY.—The department may adopt rules
228 pursuant to ss. 120.536(1) and 120.54 to implement this section.

229 Section 2. This act shall take effect July 1, 2020.