

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 cremation remains; providing requirements for
18 the 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 that certain fines collected by the
27 department be paid into the General Inspection Trust
28 Fund; authorizing the department to adopt rules;
29 providing an effective date.

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

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 on or 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

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59 the cremation of an animal, which may include ashes, skeletal
60 remains, and other residue resulting from the incineration
61 process, and which may be pulverized or otherwise processed by
62 the provider of cremation services.

63 (e) "Department" means the Department of Agriculture and
64 Consumer Services.

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

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

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

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

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

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

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

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

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88 (3) WRITTEN DESCRIPTION OF SERVICES.-

89 (a) A provider of companion animal cremation services shall
90 provide, without charge, to all of the following a written
91 description of the services that the provider offers:

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

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

98 3. The department.

99 4. Any other person, upon request.

100 (b) The written description of services:

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

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

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

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

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

116 b. Uses the terms "private" or "individual" with respect to

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117 any communal cremation procedure or with respect to an
118 individually partitioned cremation procedure that will cremate
119 more than one companion animal at the same time;

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

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

127 (4) PERSONS REFERRING OR BRINGING BUSINESS TO A PROVIDER.-

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

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

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

143 (d) For purposes of this subsection, publishing or
144 otherwise disseminating advertising for a provider of companion
145 animal cremation services does not, in and of itself, constitute

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146 referring or bringing business to that provider.

147 (5) CERTIFICATION; PENALTY FOR FALSE CERTIFICATION.—If a
148 provider's services include the return of the cremation remains
149 of the cremated animal, the provider must include a
150 certification along with the returned cremation remains. The
151 certification must declare, to the best of the provider's
152 knowledge and belief, that, except as otherwise specifically
153 indicated on the certificate, the cremation and any other
154 services specified were provided in accordance with the
155 representations of the provider in the applicable portions of
156 the provider's written description of services.

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

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

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

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

174 (7) VIOLATION AS A DECEPTIVE ACT OR PRACTICE OR UNFAIR

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175 TRADE PRACTICE.—A person who commits an act or a practice
176 declared to be unlawful under subsection (6) or who violates
177 this section commits an unfair or deceptive act or practice or
178 unfair method of competition in violation of part II of chapter
179 501 and is subject to the penalties and remedies provided
180 therein.

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

187 (9) POWERS OF THE DEPARTMENT.—

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

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

200 (c) The department may enter an order imposing one or more
201 of the penalties set forth in subsection (6) if the department
202 finds that a provider or a person or business entity that
203 regularly refers animal owners to a provider, or an agent, a

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204 servant, or an employee thereof, has:

205 1. Violated or is operating in violation of this section or
206 department rule or order;

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

211 3. Made a material false statement in response to any
212 department request or investigation.

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

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

217 2. Issues a cease and desist order that directs that the
218 person cease and desist specified activities.

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

221 4. Imposes an administrative fine in the Class III category
222 pursuant to s. 570.971 for each act or omission that involves
223 fraud or deception.

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

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

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

232 Section 2. This act shall take effect July 1, 2021.