

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 persons or entities  
12      that make referrals to providers or accept deceased  
13      companion animals for cremation through a provider to  
14      make the provider's written description of services  
15      available to owners or their representatives;  
16      providing construction; requiring certain providers to  
17      include a certification with the returned animal's  
18      cremation remains; providing requirements for the  
19      certification; providing that certain acts are  
20      unlawful; providing civil penalties for initial and  
21      subsequent offenses; providing circumstances under  
22      which a person commits an unfair or deceptive act or  
23      practice or engages in an unfair method of competition  
24      in violation of certain provisions; providing for a  
25      private right of action; providing powers of the  
26      Department of Agriculture and Consumer Services;  
27      requiring that certain fines collected by the  
28      department be paid into the General Inspection Trust  
29      Fund; authorizing the department to adopt rules;

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30 providing an effective date.

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

33  
34 Section 1. Section 501.961, Florida Statutes, is created to  
35 read:

36 501.961 Animal cremation.-

37 (1) SHORT TITLE.-This section may be cited as "Sevilla's  
38 Law."

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

40 (a) "Commingling of significant amounts of cremation  
41 remains from different companion animals" means the commingling  
42 of remains such that specific cremation remains cannot be  
43 attributed to a particular animal or the cremation remains  
44 attributed to one companion animal contain more than 1 percent  
45 by weight of cremation remains from one or more other companion  
46 animals. The term does not include the presence, in the  
47 cremation remains of a companion animal, of the remains of any  
48 creature that was on or contained within the body of that animal  
49 at the time of cremation, including parasites, insects, food, or  
50 creatures eaten by that companion animal.

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

56 (c) "Companion animal" or "animal" means a deceased animal  
57 that had a companion relationship or a pet relationship with its  
58 owner at the time of the animal's death.

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59 (d) "Cremation remains" means the material remaining after  
60 the cremation of an animal, which may include ashes, skeletal  
61 remains, and other residue resulting from the incineration  
62 process, and which may be pulverized or otherwise processed by  
63 the provider of cremation services.

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

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

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

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

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

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

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

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

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

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88 in this state.

89 (3) WRITTEN DESCRIPTION OF SERVICES.-

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

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

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

100 3. The department.

101 4. Any other person, upon request.

102 (b) The written description of services:

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

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

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

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

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

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117 this subsection;

118 b. Uses the terms "private" or "individual" with respect to  
119 any communal cremation procedure or with respect to an  
120 individually partitioned cremation procedure that will cremate  
121 more than one companion animal at the same time;

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

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

129 (4) BUSINESS ENTITIES OR PERSONS REFERRING OR BRINGING  
130 BUSINESS TO A PROVIDER.—

131 (a) A veterinarian, pet shop, or other business entity or  
132 person referring owners of deceased animals, or persons making  
133 arrangements on an owner's behalf, to a provider on a regular  
134 basis shall, at the time of the referral, make a copy of the  
135 provider's written description of services available to such  
136 person.

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

144 (c) A copy of the written description of services may be  
145 given to the animal owner, or the person making arrangements on

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146 the owner's behalf, at the time the services are offered.

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

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

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

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

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

173 (c) To knowingly make a false certification under  
174 subsection (5). A first offense is punishable by a fine of at

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175 least \$1,001 but not more than \$1,500, and each subsequent  
176 offense is punishable by a fine of at least \$2,000 but not more  
177 than \$2,500.

178 (7) VIOLATION AS A DECEPTIVE ACT OR PRACTICE OR UNFAIR  
179 TRADE PRACTICE.—In addition to any fine imposed under subsection  
180 (6), a person who commits an act or a practice declared to be  
181 unlawful under subsection (6) or who violates this section  
182 commits an unfair method of competition or an unfair or  
183 deceptive act or practice in violation of part II of chapter 501  
184 and is subject to the penalties and remedies provided for such  
185 violations.

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

192 (9) POWERS OF THE DEPARTMENT.—

193 (a) The department may conduct an investigation of any  
194 person or provider if there is an appearance, either upon  
195 complaint or otherwise, that a violation of this section or of  
196 any rule adopted or order issued pursuant to this section has  
197 been committed or is about to be committed.

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

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204 person.

205 (c) The department may enter an order imposing one or more  
206 of the penalties set forth in subsection (6) if the department  
207 finds that a provider or a person or business entity that  
208 regularly refers animal owners to a provider, or an agent, a  
209 servant, or an employee thereof:

210 1. Violated or is operating in violation of this section or  
211 department rule or order;

212 2. Refused or failed, or any of its principal officers  
213 refused or failed, after notice, to produce any records of such  
214 provider, person, or business entity or to disclose any  
215 information required to be disclosed under this section or  
216 department rules; or

217 3. Made a material false statement in response to any  
218 department request or investigation.

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

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

223 2. Issues a cease and desist order that directs that the  
224 provider, person, or business entity cease and desist specified  
225 activities.

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

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

231 (e) Except as otherwise provided in this section, the  
232 administrative proceedings that could result in the entry of an



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233 order imposing any of the penalties specified in paragraph (d)  
234 are governed by chapter 120.

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

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

239 Section 2. This act shall take effect July 1, 2022.