

By: _____

____.B. No. _____

A BILL TO BE ENTITLED

1 AN ACT
2 relating to the Texas Funeral Service Commission; authorizing fees;
3 providing a criminal penalty.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Section 651.051(a), Occupations Code, is amended
6 to read as follows:

7 (a) The Texas Funeral Service Commission consists of seven
8 members appointed by the governor, with the advice and consent of
9 the senate as follows:

10 (1) two members who are licensed as both an embalmer
11 and a funeral director for at least the five years preceding
12 appointment to the commission;

13 (2) one member who is licensed as a funeral director
14 and is a registered cemetery owner or operator; and

15 (3) four members who represent the public and who:

16 (A) are not regulated under this chapter; and

17 (B) have consistently shown an interest in
18 supporting consumer protection.

19 SECTION 2. Section 651.055(c), Occupations Code, is amended
20 to read as follows:

21 (c) It is a ground for removal from the commission that a
22 member:

23 (1) does not have at the time of appointment the
24 qualifications required by Sections 651.051(a) and (c) and

1 651.052(a);

2 (2) does not maintain during service on the commission
3 the qualifications required by Sections 651.051(a) and (c) and
4 651.052(a);

5 (3) violates a prohibition established by Sections
6 651.053(a)-(c) [~~651.053(a)-(c) or 651.506(h)~~];

7 (4) cannot because of illness or disability discharge
8 the member's duties for a substantial part of the term for which the
9 member is appointed; or

10 (5) is absent for more than half of the regularly
11 scheduled commission meetings that the member is eligible to attend
12 during a calendar year unless the absence is excused by majority
13 vote of the commission.

14 SECTION 3. The heading to Section 651.101, Occupations
15 Code, is amended to read as follows:

16 Sec. 651.101. EXECUTIVE DIRECTOR[~~, BOND~~].

17 SECTION 4. The heading to Section 651.151, Occupations
18 Code, is amended to read as follows:

19 Sec. 651.151. GENERAL LICENSING POWERS AND DUTIES.

20 SECTION 5. Section 651.151(c), Occupations Code, is
21 redesignated as Section 651.1511, Occupations Code, and amended to
22 read as follows:

23 Sec. 651.1511. COMMITTEES. [~~(c)~~] The commission may
24 appoint a committee from its members to consider and make a
25 recommendation on a matter referred to the committee by the
26 commission.

27 SECTION 6. Section 651.154, Occupations Code, is amended to

1 read as follows:

2 Sec. 651.154. FEES. (a) The commission shall set the
3 following fees in amounts reasonable and necessary to administer
4 this chapter:

5 (1) the funeral director's and embalmer's application
6 fee, license fee, renewal fee, late renewal penalty, duplicate
7 license fee, replacement license fee, and reciprocal license fee;
8 and

9 (2) the cemetery, crematory, or funeral establishment
10 license fee, renewal fee, and late renewal penalty.

11 (b) The commission shall set the provisional license
12 application fee, examination fee, renewal fee, and late renewal
13 penalty in amounts reasonable and necessary to administer the
14 provisional license program.

15 (c) The commission shall set the following fees in amounts
16 reasonable and necessary to administer the continuing education
17 program under this chapter:

18 (1) the continuing education provider fee and
19 continuing education course fee; and

20 (2) the continuing education noncompliance fee [~~may~~
21 ~~not charge a fee to a perpetual care cemetery, including a fee for~~
22 ~~issuing or renewing a license issued under this chapter~~].

23 SECTION 7. Sections 651.157, 651.1571, and 651.158,
24 Occupations Code, are amended to read as follows:

25 Sec. 651.157. INSPECTION OF [~~CEMETERY~~] CREMATORY[~~7~~] OR
26 FUNERAL ESTABLISHMENT. (a) A crematory or funeral establishment
27 must be inspected before an initial license may be issued to the

1 crematory or funeral establishment.

2 (a-1) Except as provided by Subsection (b), a [~~licensed~~
3 ~~cemetery,~~] crematory[~~7~~] or funeral establishment shall be
4 inspected at least once every two years by an agent of the
5 commission or by an agent of the state or a political subdivision
6 authorized by the commission to make inspections on its behalf.

7 (b) If the commission finds a violation of this chapter or
8 of Chapter 193, 361, 711, [~~714, 715,~~] or 716, Health and Safety
9 Code, the commission shall inspect the [~~cemetery,~~] crematory[~~7~~] or
10 funeral establishment annually until the commission determines
11 that the crematory or funeral establishment is free of violations.

12 (c) A report of each inspection made under this section
13 shall be retained in the crematory's or funeral establishment's
14 licensing file [~~filed with the commission~~].

15 (d) The commission by rule shall establish:

16 (1) procedures for the inspection of a [~~cemetery,~~]
17 crematory[~~7~~] or funeral establishment required by this section; and

18 (2) criteria, including consideration of the
19 crematory's or funeral establishment's inspection and complaint
20 history, regarding when the commission should inspect a crematory
21 or funeral [~~an~~] establishment based on the risk of a violation at a
22 crematory or funeral [~~an~~] establishment.

23 (e) A premises on which funeral directing, [~~interment,~~]
24 cremation, or embalming is practiced shall be open at all times to
25 inspection for any violation of this chapter or of Chapter 193, 361,
26 or 716, Health and Safety Code, by:

27 (1) an agent of the commission;

- 1 (2) an authorized agent of the state; or
2 (3) an authorized agent of the county or municipality
3 in which the premises is located.

4 (f) Before a commission agent inspects a [~~cemetery,~~
5 crematory~~,~~] or funeral establishment, the agent shall review the
6 inspection reports filed with the commission on the crematory or
7 funeral establishment. During the inspection, the agent shall
8 determine whether previously identified problems have been
9 corrected and whether a pattern of violations exists. The
10 commission shall consider the information from the inspection
11 reports in determining whether a penalty should be imposed against
12 a crematory or funeral [~~an~~] establishment.

13 Sec. 651.1571. INSPECTION REQUIREMENTS FOR CERTAIN
14 CEMETERIES [~~, EXCEPTION FOR PERPETUAL CARE CEMETERIES~~]. (a) A
15 cemetery licensed by the commission [~~This section and Section~~
16 ~~651.157 do not apply to perpetual care cemeteries.~~

17 [~~(b) Except as provided by Section 651.157(b):~~

18 [~~(1) a cemetery~~] may not be inspected unless:

19 (1) [~~(A)~~] an interment has occurred in the cemetery
20 within the two years preceding the inspection; or

21 (2) [~~(B)~~] the commission has received a complaint
22 about the cemetery.

23 (b) The [~~, and~~

24 [~~(2) the~~] commission shall give lower priority to an
25 inspection of a cemetery than to an inspection of a crematory or
26 funeral establishment.

27 Sec. 651.158. INSPECTION OF CERTAIN FACILITIES. (a) The

1 commission may require a funeral establishment that has solid waste
2 disposal and sanitation facilities that have not been inspected by
3 the [~~Texas~~] Department of State Health Services to obtain
4 inspection of those facilities by an entity other than the [~~Texas~~]
5 Department of State Health Services.

6 (b) The commission by rule shall establish procedures for an
7 inspection required under this section.

8 SECTION 8. Sections 651.160(a) and (b), Occupations Code,
9 are amended to read as follows:

10 (a) The commission and the [~~Texas~~] Department of State
11 Health Services shall adopt a joint memorandum of understanding
12 that:

13 (1) outlines the responsibilities of each agency in
14 enforcing requirements under Chapters 193 and 361, Health and
15 Safety Code, that affect funeral establishments;

16 (2) establishes procedures by which each agency:

17 (A) may refer a complaint to the other; and

18 (B) will notify the other of a violation by a
19 funeral establishment of Chapter 193 or 361, Health and Safety
20 Code; and

21 (3) coordinates inspection and enforcement efforts by
22 both agencies for measures that a funeral establishment is required
23 to implement under Chapters 193 and 361, Health and Safety Code.

24 (b) Not later than the last month of each state fiscal year,
25 the commission and the [~~Texas~~] Department of State Health Services
26 shall review and update the memorandum of understanding.

27 SECTION 9. Section 651.004, Occupations Code, is

1 transferred to Subchapter D, Chapter 651, Occupations Code, and
2 redesignated as Section 651.168, Occupations Code, to read as
3 follows:

4 Sec. 651.168 [~~651.004~~]. REGULATION OF CEMETERY AND
5 CREMATORY SERVICES. (a) The commission shall regulate cemetery
6 and crematory services as provided by this chapter and Chapter 716,
7 Health and Safety Code.

8 (b) The commission may not regulate cemetery or crematory
9 services that occur after burial or inurnment unless the services
10 relate to the care and treatment of the remains in an urn, casket,
11 or outer enclosure.

12 SECTION 10. Section 651.201, Occupations Code, is amended
13 by adding Subsections (c) and (d) to read as follows:

14 (c) A funeral establishment may print additional copies of
15 the brochure only if the commission is unable to provide the number
16 of brochures needed by the funeral establishment.

17 (d) A funeral establishment may provide a link on the
18 establishment's website to the brochure on the commission's
19 Internet website.

20 SECTION 11. Subchapter E, Chapter 651, Occupations Code, is
21 amended by adding Section 651.2015 to read as follows:

22 Sec. 651.2015. INTERNET WEBSITES. The commission may allow
23 a funeral establishment that maintains an Internet website to link
24 to the commission's Internet website.

25 SECTION 12. Section 651.203(a), Occupations Code, is
26 amended to read as follows:

27 (a) Subject to the commission's records retention policy,

1 the [~~The~~] commission shall maintain a file on each written
2 complaint filed with the commission. The file must include:

- 3 (1) the subject matter of the complaint;
- 4 (2) the date the complaint is received by the
5 commission;
- 6 (3) the name of the person who filed the complaint;
- 7 (4) the name of each person contacted in relation to
8 the complaint;
- 9 (5) a summary of the results of the review or
10 investigation of the complaint; and
- 11 (6) an explanation of the reason the file was closed,
12 if the commission closed the file without taking action other than
13 to investigate the complaint.

14 SECTION 13. Section 651.252, Occupations Code, is amended
15 to read as follows:

16 Sec. 651.252. LICENSE APPLICATION. (a) The commission may
17 adopt license application requirements [~~An applicant~~] for a funeral
18 director's license or an embalmer's license [~~must submit a written~~
19 ~~license application to the commission and pay the application fee~~].

20 (b) The commission may provide that a person applies for a
21 funeral director's or embalmer's license by completing a
22 provisional license program under Subchapter G [~~require an~~
23 ~~applicant to appear before at least one member of the commission for~~
24 ~~approval of the person's application. The approval is subject to~~
25 ~~review by the entire commission.~~

26 [~~(c) The commission shall keep a permanent, alphabetical~~
27 ~~record of each license application and the action taken on the~~

1 ~~application. The record must indicate the current status of each~~
2 ~~application and license issued].~~

3 SECTION 14. Section 651.164, Occupations Code, is
4 transferred to Subchapter F, Chapter 651, Occupations Code,
5 redesignated as Section 651.2525, Occupations Code, and amended to
6 read as follows:

7 Sec. 651.2525 [~~651.164~~]. LICENSE EXPIRATION. (a) A funeral
8 director's or embalmer's license is valid for 24 months.

9 (b) The commission by rule shall [~~may~~] adopt a system under
10 which licenses expire on various dates during the year. For an
11 initial license that is issued for a term of less than 24 months
12 [~~the year in which the license expiration date is changed~~], the
13 commission shall prorate license fees on a monthly basis so that
14 each license holder pays only that portion of the license fee that
15 is allocable to the number of months during which the license is
16 valid. On renewal of the license on the new expiration date, the
17 total license renewal fee is payable.

18 SECTION 15. Section 651.253, Occupations Code, is amended
19 to read as follows:

20 Sec. 651.253. GENERAL LICENSE REQUIREMENTS. (a) To be
21 eligible for a funeral director's license or an embalmer's license,
22 an applicant must:

- 23 (1) be at least 18 years of age;
- 24 (2) have graduated from an accredited high school or
25 passed an examination prescribed by the Texas Education Agency;
- 26 (3) have graduated from an accredited school or
27 college of mortuary science;

1 (4) unless the applicant holds a reciprocal license,
2 have completed the requirements of the provisional license program;
3 and

4 (5) have successfully completed the ~~[applicable]~~
5 written examinations ~~[examination]~~ described by Section 651.254
6 and by Section 651.255 or 651.256, as applicable.

7 (b) Unless the applicant is seeking a reciprocal license, an
8 ~~[An]~~ applicant for a funeral director's license or an embalmer's
9 license may not be considered for that license until the
10 applicant~~+~~

11 ~~[(1)]~~ completes all of the requirements of the
12 provisional license program~~+~~ ~~and~~

13 ~~[(2) attains a grade of at least 75 percent on the~~
14 ~~written examination given by the commission].~~

15 (c) Notwithstanding Subsection (a)(3), the commission may
16 adopt rules to allow an applicant who graduated from a school or
17 college of mortuary science that is no longer accredited to become
18 licensed as a funeral director or embalmer.

19 SECTION 16. Section 651.254, Occupations Code, is amended
20 to read as follows:

21 Sec. 651.254. MORTUARY LAW EXAMINATION. (a) The
22 commission shall administer or arrange for the administration of a
23 written examination developed by the commission or developed for
24 the commission under a contract on:

25 (1) laws applicable to vital statistics pertaining to
26 dead human bodies; and

27 (2) local and state rules and laws relating to the

1 preparation, transportation, care, and disposition of dead human
2 bodies.

3 (b) To pass the examination, an individual must receive a
4 grade of at least 75 percent. [~~LICENSE EXAMINATIONS; RESULTS. (a)~~
5 ~~The examinations for a funeral director's license and an embalmer's~~
6 ~~license shall be held at least annually. The examinations shall be~~
7 ~~given at the time and place designated by the commission. The~~
8 ~~commission shall give notice of the examinations.~~

9 [~~(b) Not later than the 30th day after the date a person~~
10 ~~takes a licensing examination under this chapter, the commission~~
11 ~~shall notify the person of the results of the examination.~~

12 [~~(c) If the examination is graded or reviewed by a testing~~
13 ~~service:~~

14 [~~(1) the commission shall notify the person of the~~
15 ~~results of the examination not later than the 14th day after the~~
16 ~~date the commission receives the results from the testing service,~~
17 ~~and~~

18 [~~(2) if notice of the examination results will be~~
19 ~~delayed for longer than 90 days after the examination date, the~~
20 ~~commission shall notify the person of the reason for the delay~~
21 ~~before the 90th day.~~

22 [~~(d) The commission may require a testing service to notify~~
23 ~~a person of the results of the person's examination.~~

24 [~~(e) If requested in writing by a person who fails a~~
25 ~~licensing examination administered under this chapter, the~~
26 ~~commission shall furnish the person with an analysis of the~~
27 ~~person's performance on the examination.]~~

1 SECTION 17. Sections 651.255, 651.256, 651.258, and
2 651.259, Occupations Code, are amended to read as follows:

3 Sec. 651.255. EXAMINATION [~~EXAMINATIONS~~] REQUIRED FOR
4 FUNERAL DIRECTOR'S LICENSE. The commission shall administer or
5 arrange for the administration of[+]

6 [~~(1)~~] a written professionally prepared examination
7 on:

8 (1) [~~(A)~~] the art and technique of funeral directing;

9 (2) [~~(B)~~] the signs of death;

10 (3) [~~(C)~~] the manner by which death may be determined;

11 (4) [~~(D)~~] sanitation and hygiene;

12 (5) [~~(E)~~] mortuary management and mortuary law;

13 (6) [~~(F)~~] business and professional ethics; and

14 (7) [~~(G)~~] other subjects that may be taught in a
15 recognized school or college of mortuary science[+and

16 [~~(2) a written examination developed by the commission
17 or developed for the commission by contract on:~~

18 [~~(A) laws applicable to vital statistics
19 pertaining to dead human bodies, and~~

20 [~~(B) local and state rules and laws relating to
21 the preparation, transportation, care, and disposition of dead
22 human bodies]~~.

23 Sec. 651.256. EXAMINATION [~~EXAMINATIONS~~] REQUIRED FOR
24 EMBALMER'S LICENSE. The commission shall administer or arrange for
25 the administration of[+]

26 [~~(1)~~] a written professionally prepared examination
27 on:

- 1 (1) [~~(A)~~] the anatomy of the human body, including:
2 (A) [~~(i)~~] the cavities of the human body; and
3 (B) [~~(ii)~~] the arterial and venous system of the
4 human body;
5 (2) [~~(B)~~] blood and discoloration;
6 (3) [~~(C)~~] bacteriology and hygiene;
7 (4) [~~(D)~~] pathology;
8 (5) [~~(E)~~] chemistry and embalming;
9 (6) [~~(F)~~] arterial and cavity embalming;
10 (7) [~~(G)~~] restorative art;
11 (8) [~~(H)~~] disinfecting;
12 (9) [~~(I)~~] embalming special cases;
13 (10) [~~(J)~~] contagious and infectious diseases;
14 (11) [~~(K)~~] mortuary management;
15 (12) [~~(L)~~] care, preservation, transportation, and
16 disposition of dead human bodies;
17 (13) [~~(M)~~] sanitary science; and
18 (14) [~~(N)~~] other subjects that may be taught in a
19 recognized school or college of mortuary science~~[, and~~
20 ~~[(2) a written examination developed by the commission~~
21 ~~or developed for the commission by contract on:~~
22 ~~[(A) laws applicable to vital statistics~~
23 ~~pertaining to dead human bodies, and~~
24 ~~[(B) local and state rules and laws relating to~~
25 ~~the care and disposition of dead human bodies].~~

26 Sec. 651.258. LICENSE ISSUANCE. On issuance of a funeral
27 director's license or an embalmer's license under this chapter, a

1 majority of the commission members shall sign the license. A [~~The~~
2 license issued by the commission authorizes the license holder to
3 practice embalming, funeral directing, or both.

4 Sec. 651.259. APPLICATION BY OUT-OF-STATE LICENSE HOLDER.

5 (a) The commission shall waive any requirement for a funeral
6 director's license or an embalmer's license for an applicant who
7 holds a license issued by another state, country, or territory that
8 has license requirements substantially equivalent to the
9 requirements of this state and who meets the requirements of this
10 section. The commission may waive any license requirement for an
11 applicant who holds a license issued by another state that does not
12 have license requirements substantially equivalent to those of this
13 state and who meets the requirements of this section. [~~The~~
14 ~~applicant shall pay a license fee in an amount set by the~~
15 ~~commission.~~]

16 (b) Any applicant for a license under this section shall
17 file an [~~a sworn~~] application that includes:

18 (1) a sworn statement that:

19 (A) the applicant is the person to whom the
20 license was issued;

21 (B) the license under which the applicant
22 practiced as a funeral director or embalmer in the state, country,
23 or territory from which the applicant moved was, at the time the
24 applicant left, in effect;

25 (C) no proceeding has been instituted against the
26 applicant for the cancellation, suspension, or revocation of the
27 license in the state, country, or territory that issued the

1 license; and

2 (D) [~~(C)~~] no prosecution is pending against the
3 applicant in a state or federal court for an offense that, under the
4 laws of this state, is a felony, or is a misdemeanor related to the
5 practice of embalming or funeral directing; ~~and~~

6 (2) an affidavit of a person described by Subsection
7 (c) verifying that:

8 (A) the accompanying license has not been
9 canceled, suspended, or revoked; and

10 (B) the statement of the qualifications made in
11 the application for licensure in this state is correct; and

12 (3) documentation that the applicant has graduated
13 from an accredited college of mortuary science.

14 (c) The affidavit must be made by:

15 (1) the presiding officer or secretary of the
16 governmental entity that issued the license; or

17 (2) a registration officer of the state, country, or
18 territory that issued the license.

19 ~~[(d) The applicant must affirm in the statement that the~~
20 ~~license under which the applicant practiced as a funeral director~~
21 ~~or embalmer in the state, country, or territory from which the~~
22 ~~applicant moved was, at the time the applicant left, in effect.]~~

23 (e) An applicant must submit to ~~[The commission shall~~
24 ~~conduct]~~ a criminal background check before submitting a license
25 application ~~[on each applicant]~~. An applicant is not eligible for a
26 license under this section if the applicant has, in the 10 years
27 preceding the date of the application, been finally convicted of a

1 misdemeanor involving moral turpitude or a felony.

2 (f) An applicant for a license under this section must~~+~~

3 ~~(1)~~ provide proof that~~+~~

4 ~~(A) the license is in good standing,~~

5 ~~(B)~~ the applicant has practiced under the
6 license for at least:

7 (1) ~~(i)~~ one year in the state, country, or territory
8 that issued the license if that state, country, or territory has
9 license requirements substantially equivalent to those of this
10 state; or

11 (2) ~~(ii)~~ five years in the state, country, or
12 territory that issued the license if that state, country, or
13 territory does not have license requirements substantially
14 equivalent to those of this state.

15 (f-1) An applicant under this section must successfully
16 complete the written examination described by Section 651.254~~, and~~

17 ~~(C) the applicant has graduated from an~~
18 ~~accredited college of mortuary science, and~~

19 ~~(2) pass a written examination of not more than 50~~
20 ~~questions on applicable state laws and commission rules].~~

21 (g) On approval of the application, the applicant shall pay
22 a license fee in an amount set by the commission [~~The commission~~
23 ~~shall conduct the examination under Subsection (f)(2) at each~~
24 ~~regularly scheduled meeting of the commission)].~~

25 SECTION 18. The heading to Section 651.260, Occupations
26 Code, is amended to read as follows:

27 Sec. 651.260. REPLACEMENT [~~DUPLICATE~~] LICENSE.

1 SECTION 19. Sections 651.260(a) and (c), Occupations Code,
2 are amended to read as follows:

3 (a) If a license issued under this chapter is lost or
4 destroyed, the license holder may apply to the commission for a
5 replacement [~~duplicate~~] license.

6 (c) The commission shall issue a replacement [~~duplicate~~]
7 license after receipt of the information and payment of the fee set
8 by the commission for the replacement [~~duplicate~~] license.

9 SECTION 20. Section 651.261, Occupations Code, is amended
10 to read as follows:

11 Sec. 651.261. POSTING OF LICENSE. (a) A license holder
12 shall conspicuously display the holder's original license,
13 duplicate original license, or replacement license in each place of
14 business at which the license holder practices.

15 (b) The commission shall issue a duplicate original license
16 on application and payment of a fee set by the commission for the
17 license if the license holder needs a license to display in multiple
18 locations.

19 SECTION 21. Section 651.266, Occupations Code, is amended
20 to read as follows:

21 Sec. 651.266. CONTINUING EDUCATION. The commission by rule
22 may require continuing education as a condition for license renewal
23 except for a license holder described by Section 651.155 or an
24 applicant for renewal described by Section 651.265(b) [~~651.265~~].
25 If the commission requires continuing education, the commission
26 shall require completion of a minimum number of hours of ethics
27 training as a required part of that education.

1 SECTION 22. Section 651.165, Occupations Code, is
2 transferred to Subchapter F, Chapter 651, Occupations Code,
3 redesignated as Section 651.2661, Occupations Code, and amended to
4 read as follows:

5 Sec. 651.2661 [~~651.165~~]. RENEWAL OR REINSTATEMENT OF
6 LICENSE. (a) A person who is otherwise eligible to renew a license
7 may renew an unexpired license by paying the required renewal fee to
8 the commission before the expiration date of the license. A person
9 whose license has expired may not engage in activities that require
10 a license until the license has been renewed.

11 (b) A person whose license has been expired for 90 days or
12 less may renew the license by paying to the commission a renewal fee
13 that is equal to 1-1/2 times the normally required renewal fee.

14 (c) A person whose license has been expired for more than 90
15 days but less than one year may renew the license by paying to the
16 commission a renewal fee that is equal to two times the normally
17 required renewal fee.

18 (d) A person whose license has been expired for one year or
19 more may reinstate [~~renew~~] the license by:

20 (1) retaking and passing the [~~applicable~~] examination
21 under Section 651.254;

22 (2) paying any applicable fees, including a renewal
23 fee that is equal to two times the normally required renewal fee;
24 and

25 (3) completing any continuing education required
26 under Section 651.266.

27 (e) A person who was licensed in this state, moved to

1 another state, and is currently licensed and has been in practice in
2 the other state for the two years preceding the date of application
3 may obtain a new license without reexamination if both licenses are
4 in good standing. The person must pay to the commission a fee that
5 is equal to two times the normally required renewal fee for the
6 license.

7 (f) At least 30 days before the expiration of a person's
8 license, the commission shall send written notice of the impending
9 license expiration to the person at the person's last known address
10 according to the records of the commission.

11 SECTION 23. Section 651.1655, Occupations Code, is
12 transferred to Subchapter F, Chapter 651, Occupations Code,
13 redesignated as Section 651.2662, Occupations Code, and amended to
14 read as follows:

15 Sec. 651.2662 [~~651.1655~~]. REINSTATEMENT OF SUSPENDED
16 LICENSE. If authorized by the commission, a [A] person whose
17 license has been suspended may reinstate [~~renew~~] the license by:

18 (1) paying to the commission a renewal fee that is
19 equal to two times the normally required renewal fee;

20 (2) paying [~~in addition to~~] any penalty assessed by
21 the commission;

22 (3) completing any continuing education required
23 under Section 651.266; and

24 (4) passing with a score of at least 75 percent the
25 examination under Section 651.254.

26 SECTION 24. Sections 651.267(c) and (d), Occupations Code,
27 are amended to read as follows:

1 (c) A hearing to determine whether to reissue a license
2 shall be held before the commission unless the commission requires
3 the hearing to be held before an administrative law judge [~~a~~
4 ~~hearings officer~~].

5 (d) A license that has been revoked may be reissued
6 [~~reinstated~~] only after the applicant:

7 (1) retakes and passes the [~~applicable~~] examination
8 under Section 651.254;

9 (2) pays a fee that is equal to two times the normally
10 required renewal fee; [~~and~~]

11 (3) satisfies any other commission requirements,
12 including any continuing education requirements under Section
13 651.266; and

14 (4) pays any penalty assessed by the commission.

15 SECTION 25. The heading to Subchapter H, Chapter 651,
16 Occupations Code, is amended to read as follows:

17 SUBCHAPTER H. LICENSE REQUIREMENTS: CEMETERY, FUNERAL, AND
18 COMMERCIAL EMBALMING [~~EMBALMER~~] ESTABLISHMENTS

19 SECTION 26. Section 651.351, Occupations Code, is amended
20 by amending Subsections (d), (f), (g), and (h) and adding
21 Subsection (h-1) to read as follows:

22 (d) A funeral establishment must:

23 (1) meet the building, fire safety, and health
24 standards and health ordinances of this state and of the
25 municipality in which the establishment is located;

26 (2) except as provided by Subsection (i), be located
27 at a fixed place that is not tax-exempt property or a cemetery;

1 (3) include facilities in which funeral services may
2 be conducted;

3 (4) have access to vehicles [~~rolling stock~~] consisting
4 of at least one motor hearse;

5 (5) include a preparation room containing the
6 facilities, equipment, and supplies required by commission rule to
7 ensure the provision of adequate embalming services;

8 (6) include other facilities as necessary to comply
9 with the sanitary codes of this state and of the municipality in
10 which the room is located; [~~and~~]

11 (7) include a display containing sufficient
12 merchandise to permit reasonable selection, including at least
13 [~~five adult caskets,~~] two [~~of which must be~~] full-size caskets, one
14 of which must be the least expensive casket offered, that are [~~and~~]
15 displayed in a setting that allows for private selection; and

16 (8) conspicuously display the funeral establishment's
17 license [~~casket showroom~~].

18 (f) Other than the two full-size caskets, the merchandise
19 [~~The least expensive casket~~] displayed under Subsection (d)(7)
20 [~~must be a full-size casket displayed in the same general manner as~~
21 ~~the other full-size caskets are displayed. The three adult caskets~~
22 ~~that are not required to be full-size under Subsection (d)(7)] may
23 be displayed:~~

24 (1) in a partial panel display; or

25 (2) by video or brochure, online, or in any other
26 manner.

27 (g) The commission may exempt a funeral establishment from

1 the requirements of Subsection (d)(5) if[+]

2 [~~(1)~~] the majority owner or designated agent of record
3 of a funeral establishment submits a written petition to the
4 commission requesting an exemption and stating:

5 (1) [~~(A)~~] the establishment's name and address;

6 (2) [~~(B)~~] that the establishment is located within 50
7 miles of a facility owned by the establishment requesting the
8 exemption and at which embalming services may be performed; and

9 (3) [~~(C)~~] that no embalming services will be performed
10 at the establishment [~~+~~ and

11 [~~(2) the commission determines that the criteria in~~
12 ~~Subdivision (1) have been met~~].

13 (h) The executive director shall notify the petitioner of
14 the commission's decision on an exemption request under Subsection
15 (g).

16 (h-1) An [~~The~~] exemption under Subsection (g) remains in
17 effect until the conditions required for the exemption are no
18 longer met [~~+~~

19 [~~(1) the establishment is no longer located within 50~~
20 ~~miles of a facility owned by the exempt establishment or at which~~
21 ~~embalming services may be performed, or~~

22 [~~(2) an embalming service has been performed at the~~
23 ~~establishment~~].

24 SECTION 27. The heading to Section 651.352, Occupations
25 Code, is amended to read as follows:

26 Sec. 651.352. COMMERCIAL EMBALMING [~~EMBALMERS~~]
27 ESTABLISHMENT LICENSE REQUIREMENTS.

1 SECTION 28. Sections 651.352(a), (b), (c), and (e),
2 Occupations Code, are amended to read as follows:

3 (a) In this section, "commercial embalming [~~embalmers~~]
4 establishment" means a funeral [~~an~~] establishment that:

5 (1) embalms for other licensed funeral
6 establishments; and

7 (2) does not sell services or merchandise directly or
8 at retail to the public [~~, and~~

9 [~~(3) meets the requirements for an embalmers license~~].

10 (b) An establishment that functions solely as a commercial
11 embalming [~~embalmers~~] establishment is required to hold a
12 commercial embalming [~~embalmers~~] establishment license and [~~but~~]
13 is [~~not~~] required to comply with the requirements for a funeral
14 establishment license under Section 651.351 except for the
15 requirements of Sections 651.351(d)(3) [~~, (d)(6),~~] and (d)(7)
16 [~~(f)~~].

17 (c) A commercial embalming [~~embalmers~~] establishment may
18 employ an embalmer only if the embalmer is licensed under this
19 chapter.

20 (e) A licensed commercial embalming [~~embalmers~~]
21 establishment that meets the licensing requirements under
22 Subchapter N may hold a crematory establishment license.

23 SECTION 29. Section 651.401, Occupations Code, is amended
24 to read as follows:

25 Sec. 651.401. REMOVAL OF DEAD HUMAN BODY [~~FIRST CALL~~]. (a)
26 A funeral director [~~or embalmer~~] must direct [~~and personally~~
27 ~~supervise~~] the pickup of a dead human body [~~on first call~~].

1 (b) A dead human body may be transferred without a funeral
2 director directing [~~personally making~~] the transfer at the
3 direction of a justice of the peace or other law enforcement
4 official[-

5 [~~(1) from one funeral establishment to another;~~

6 [~~(2) from a funeral establishment to and from a morgue~~
7 ~~in which an autopsy is performed;~~

8 [~~(3) to and from an airport, crematory, or both; or~~

9 [~~(4) in circumstances in which there is no reasonable~~
10 ~~probability that an unlicensed person will encounter a family~~
11 ~~member or other person with whom funeral arrangements are normally~~
12 ~~made by a funeral director or embalmer].~~

13 (c) A funeral director may direct an unlicensed person, a
14 provisional license holder, or an embalmer in the removal of a dead
15 human body. A funeral director who directs the removal of a dead
16 human body by an unlicensed person is strictly accountable for
17 compliance with the requirements of this chapter. If an unlicensed
18 person, a provisional license holder, or an embalmer inadvertently
19 encounters a family member or other person with whom funeral
20 arrangements are normally made, the [~~unlicensed~~] person shall
21 restrict communication with the family member or other person to:

22 (1) identifying the [~~unlicensed~~] person's employer;

23 and

24 (2) [~~arranging an appointment with the unlicensed~~
25 ~~person's employer for a family member or other person who indicates~~
26 ~~a desire to make funeral arrangements for the deceased; and~~

27 [~~(3)~~] making any disclosure to the family member or

1 other person that is required by federal or state law or regulation.

2 ~~[(d) A funeral director or embalmer who directs the removal~~
3 ~~or transfer of a dead human body without personally supervising the~~
4 ~~transfer is strictly accountable for compliance with the~~
5 ~~requirements of first call as provided by this section.]~~

6 SECTION 30. Subchapter I, Chapter 651, Occupations Code, is
7 amended by adding Section 651.4031 to read as follows:

8 Sec. 651.4031. DESIGNATION OF EMBALMER IN CHARGE; EFFECT
9 OF VIOLATION. (a) A commercial embalming establishment shall:

10 (1) designate to the commission an embalmer in charge;
11 and

12 (2) promptly notify the commission of any change in
13 that designation.

14 (b) The embalmer in charge is directly responsible for the
15 embalming business of the commercial embalming establishment.

16 (c) The embalmer in charge is ultimately responsible for
17 compliance with mortuary laws. The embalmer in charge may be
18 charged with a violation of this chapter if a violation occurs in
19 the commercial embalming establishment.

20 SECTION 31. Section 651.404, Occupations Code, is amended
21 to read as follows:

22 Sec. 651.404. CONSUMER BROCHURE. When funeral services are
23 discussed, a funeral director or agent of the funeral establishment
24 shall provide each prospective customer with a copy of the brochure
25 prepared by the commission under Section 651.201. ~~[The funeral~~
26 ~~establishment shall print additional copies of the brochure if the~~
27 ~~commission is unable to provide the number of brochures needed by~~

1 ~~the funeral establishment.]~~

2 SECTION 32. Section 651.407(c), Occupations Code, is
3 amended to read as follows:

4 (c) The funeral establishment shall retain a copy of the
5 written consent for at least two years and shall make the records of
6 the funeral establishment reasonably available for inspection by:

7 (1) the commission; and

8 (2) the person who provided the consent, as provided
9 by Section 711.002, Health and Safety Code [~~and~~

10 [~~(3) the next of kin of the deceased person~~].

11 SECTION 33. The heading to Section 651.454, Occupations
12 Code, is amended to read as follows:

13 Sec. 651.454. [~~OTHER~~] UNETHICAL CONDUCT IN SOLICITING
14 CUSTOMERS.

15 SECTION 34. Section 651.454(a), Occupations Code, is
16 amended to read as follows:

17 (a) A person violates this chapter if the person, in
18 arranging for funeral services or merchandise, fails to:

19 (1) provide a prospective customer at the beginning of
20 the arrangement process with a copy of the brochure required by
21 Section 651.404;

22 (2) provide to a prospective customer inquiring in
23 person about any funeral service or merchandise a retail price list
24 for the prospective customer to keep;

25 (3) explain to a prospective customer that a purchase
26 [~~contractual~~] agreement for funeral services or merchandise may not
27 be entered into before a retail price list is provided to the

1 prospective customer; or

2 (4) provide general price information by telephone
3 within a reasonable time.

4 SECTION 35. Sections 651.457 and 651.458, Occupations Code,
5 are amended to read as follows:

6 Sec. 651.457. UNETHICAL CONDUCT REGARDING EMBALMING. (a)
7 A person violates this chapter if the person:

8 (1) embalms a body without:

9 (A) receiving the express written or oral
10 permission of a person authorized to make funeral arrangements for
11 the deceased; or

12 (B) making a documented reasonable effort over a
13 period of at least three hours to obtain the permission;

14 (2) ~~[embalms or attempts to embalm a dead human body~~
15 ~~without proper authority, evidence of which includes making an~~
16 ~~incision on the body, raising a circulatory vessel of the body, or~~
17 ~~injecting a chemical into the body,~~

18 ~~[(3)]~~ allows the presence or participation of a
19 student for credit or satisfaction of academic requirements during
20 the embalming of a dead human body without complying with Section
21 651.407; or

22 (3) ~~[(4)]~~ places a chemical or substance on or in a
23 dead human body to disinfect or preserve the body or to restore body
24 tissues and structures without holding an embalmer's license.

25 (b) Notwithstanding Subsection (a)(3) ~~[(a)(4)]~~, a
26 provisional license holder does not violate this chapter if the
27 provisional license holder places a chemical or substance on or in a

1 dead human body to disinfect or preserve the body or to restore body
2 tissues and structures under the supervision of an embalmer.

3 (c) For purposes of this section, "embalms a body" includes
4 an attempt to embalm a body, evidence of which includes making an
5 incision on the body, raising a circulatory vessel of the body, or
6 injecting a chemical into the body.

7 Sec. 651.458. UNETHICAL CONDUCT BY FUNERAL ESTABLISHMENT.
8 A person violates this chapter if the person makes a distinction in
9 providing funeral information to a customer because ~~[regardless]~~ of
10 any affiliation of the customer or because ~~[whether]~~ the customer
11 does or does not have ~~[has]~~ a present need for the services or
12 merchandise.

13 SECTION 36. The heading to Section 651.459, Occupations
14 Code, is amended to read as follows:

15 Sec. 651.459. ~~[OTHER]~~ UNETHICAL CONDUCT IN PROVIDING
16 FUNERAL SERVICES.

17 SECTION 37. Sections 651.459(a) and (c), Occupations Code,
18 are amended to read as follows:

19 (a) A person violates this chapter if the person:

20 (1) wilfully makes a false statement on:

21 (A) a death certificate, including forgery of a
22 physician's signature; or

23 (B) a document required by this chapter or a rule
24 adopted under this chapter;

25 (2) engages in fraudulent, ~~[unprofessional, or]~~
26 deceptive, ~~[conduct in providing funeral services or merchandise to~~
27 ~~a customer,~~

1 ~~[(3) engages in]~~ dishonest ~~[conduct]~~, wilful,
2 unprofessional, or negligent conduct in providing ~~[, or negligence~~
3 ~~in the practice of]~~ embalming services or funeral services or
4 merchandise to a customer ~~[directing]~~ that is likely to or does
5 deceive, defraud, or otherwise injure the public;

6 (3) ~~[(4)]~~ causes the execution of a document by the
7 use of fraud, deceit, or misrepresentation;

8 (4) ~~[(5)]~~ directly or indirectly employs a person to
9 solicit individuals or institutions by whose influence dead human
10 bodies may be turned over to a particular funeral director,
11 embalmer, or funeral establishment;

12 (5) ~~[(6)]~~ misappropriates funds held by a license
13 holder, a funeral establishment, an employee or agent of the
14 funeral establishment, or another depository, that create an
15 obligation to provide a funeral service or merchandise, including
16 retaining for an unreasonable time excess funds paid by or on behalf
17 of the customer for which the customer is entitled to a refund; or

18 (6) ~~[(7)]~~ performs acts of funeral directing or
19 embalming that are outside the licensed scope and authority of the
20 license holder, or performs acts of funeral directing or embalming
21 in a capacity other than that of an employee, agent, subcontractor,
22 or assignee of a licensed funeral establishment that has contracted
23 to perform those acts.

24 (c) A funeral director in charge violates this chapter if
25 the funeral director in charge fails to ensure that a dead human
26 body is removed in the manner provided by Section 651.401 ~~[provide a~~
27 ~~funeral director or an embalmer for direction or personal~~

1 ~~supervision for a first call]~~.

2 SECTION 38. Section 651.461, Occupations Code, is amended
3 to read as follows:

4 Sec. 651.461. DEFENSE TO VIOLATION. A person licensed
5 under this chapter does not violate this chapter by engaging in
6 conduct regarding funeral arrangements under the direction of a
7 person who:

8 (1) represents in writing to the license holder that
9 the person is authorized to make funeral arrangements for the
10 deceased; and

11 (2) provides written directions to the license holder
12 in the manner provided by Section 711.002, Health and Safety Code.

13 SECTION 39. Section 651.508, Occupations Code, is
14 transferred to Subchapter J, Chapter 651, Occupations Code,
15 redesignated as Section 651.462, Occupations Code, and amended to
16 read as follows:

17 Sec. 651.462 [~~651.508~~]. ENFORCEMENT OF LAW REGULATING
18 CREMATORIES. A [~~For purposes of this subchapter, a~~] person
19 regulated under this chapter that violates Chapter 716, Health and
20 Safety Code, violates this chapter.

21 SECTION 40. Section 651.501(a), Occupations Code, is
22 amended to read as follows:

23 (a) The [~~After a hearing as provided by this subchapter,~~
24 ~~the~~] commission may issue a letter of warning [~~reprimand~~], assess
25 an administrative penalty, revoke or [~~7~~] suspend a license, place a
26 license holder on probation [~~or probate the suspension of a license~~
27 ~~or provisional license~~], or impose any combination of those

1 penalties if the commission determines that a person regulated
2 under this chapter has violated [~~for a violation of~~] this chapter or
3 a rule adopted under this chapter.

4 SECTION 41. Subchapter K, Chapter 651, Occupations Code, is
5 amended by adding Section 651.5012 to read as follows:

6 Sec. 651.5012. CHARGING FUNERAL ESTABLISHMENT WITH
7 VIOLATION. Notwithstanding Section 651.501(b), in determining
8 whether to charge a funeral establishment with a violation, the
9 commission may consider:

- 10 (1) the nature and seriousness of the violation; and
11 (2) the extent to which the owner or manager of the
12 funeral establishment made any decision that led to the conduct
13 that constitutes a violation.

14 SECTION 42. The heading to Section 651.502, Occupations
15 Code, is amended to read as follows:

16 Sec. 651.502. LICENSE DENIAL [~~, EFFECT OF CRIMINAL~~
17 ~~CONVICTION~~].

18 SECTION 43. Section 651.502, Occupations Code, is amended
19 by amending Subsections (a) and (b) and adding Subsection (a-1) to
20 read as follows:

21 (a) After a hearing before the commission, the [~~The~~]
22 commission may [~~, before a hearing or a waiver of a right to a~~
23 ~~hearing,~~] refuse to issue or renew:

24 (1) a license or provisional license to a person who
25 has violated this chapter or a rule adopted under this chapter or
26 who has a criminal conviction; or

27 (2) an establishment license to an individual,

1 partnership, or corporation if the individual, a partner, or an
2 officer or director of the corporation:

3 (A) has violated this chapter or a rule adopted
4 under this chapter;

5 (B) previously held an establishment license
6 that was suspended or revoked; or

7 (C) attempts to avoid a revocation, suspension,
8 or license denial [~~refusal~~] by subterfuge or other evasive means.

9 (a-1) The commission may, after a hearing held under
10 Subsection (a), order that a license be issued or renewed on a
11 probationary basis through execution of an agreed order.

12 (b) A person who is refused the issuance or renewal of [~~to~~
13 ~~whom the commission refuses to issue~~] a license under Subsection
14 (a) may appeal the decision by submitting a written request for a
15 hearing in accordance with Chapter 2001, Government Code, not later
16 than the 30th day after the date of the refusal.

17 SECTION 44. Subchapter K, Chapter 651, Occupations Code, is
18 amended by adding Section 651.5029 to read as follows:

19 Sec. 651.5029. REPORT AND NOTICE OF VIOLATION AND PENALTY.

20 (a) If, after examining a possible violation and the facts relating
21 to that violation, the commission determines that a violation has
22 occurred, the commission shall issue a preliminary report stating:

23 (1) the facts on which the determination is based;

24 (2) that a sanction may be imposed; and

25 (3) the types of sanctions that may be imposed for the
26 violation.

27 (b) Not later than the 10th day after the date the report is

1 issued, the commission shall send to the person charged with the
2 violation:

3 (1) a copy of the report;

4 (2) a statement of the right of the person to a hearing
5 relating to the alleged violation;

6 (3) a statement of the types of sanctions that may be
7 imposed for the violation; and

8 (4) a statement that the person may request an
9 informal proceeding.

10 (c) Until a hearing has been held on the possible violation,
11 the possible violation and the sanctions that may be imposed may be
12 disclosed only to the person charged with the violation, unless
13 that person has waived the right to a hearing or paid the amount to
14 the commission.

15 SECTION 45. The heading to Section 651.503, Occupations
16 Code, is amended to read as follows:

17 Sec. 651.503. LETTER OF WARNING; REPORT BY LICENSE HOLDER.

18 SECTION 46. Section 651.503(a), Occupations Code, is
19 amended to read as follows:

20 (a) The commission shall issue a written warning to a
21 license holder if the commission:

22 (1) conducts an investigation that identifies a
23 violation of this chapter by the license holder; and

24 (2) does not [~~issue a reprimand, assess an~~
25 ~~administrative penalty, or~~] impose any other penalty against the
26 license holder.

27 SECTION 47. Section 651.505, Occupations Code, is amended

1 by amending Subsection (a) and adding Subsection (d) to read as
2 follows:

3 (a) If the commission places a license holder on probation
4 [~~a person whose license has been suspended~~], the commission may
5 impose conditions on the probation that are reasonable and related
6 to the reason the license holder was placed on probation [~~violation~~
7 ~~for which the license was suspended~~]. If the commission orders
8 probation, the commission may require the license holder to:

9 (1) report regularly to the commission on matters that
10 are the basis of the probation;

11 (2) limit practice to the areas prescribed by the
12 commission; or

13 (3) continue or renew professional education until the
14 license holder attains a degree of skill satisfactory to the
15 commission in those areas that are the basis of the probation.

16 (d) The commission may suspend or revoke the license of a
17 license holder without a hearing if the commission determines the
18 license holder violated the terms of probation. The license holder
19 may appeal the decision by submitting a written request for a
20 hearing in accordance with this chapter and Chapter 2001,
21 Government Code, not later than the 30th day after the date of the
22 suspension or revocation.

23 SECTION 48. Section 651.506(a), Occupations Code, is
24 amended to read as follows:

25 (a) A proceeding conducted by the commission relating to an
26 appeal of the denial of a license or provisional license, the
27 suspension or revocation of a license, [~~the issuance of a~~

1 ~~reprimand,~~] or the imposition of an administrative penalty under
2 Subchapter L [~~assessed after a hearing as provided by Section~~
3 ~~651.551~~] and judicial review of the proceeding are governed by
4 Chapter 2001, Government Code.

5 SECTION 49. Section 651.506(f), Occupations Code, is
6 redesignated as Section 651.50601, Occupations Code, and amended to
7 read as follows:

8 Sec. 651.50601. DECISION BY COMMISSION. [~~(f)~~] The
9 commission shall review the findings of fact, conclusions of law,
10 and ruling of the administrative law judge in a proceeding under
11 Section 651.506 before making its final ruling in the proceeding.
12 The commission may also review a transcript of the proceeding
13 before making its final ruling. The commission shall adopt the
14 ruling of the administrative law judge as its ruling unless it finds
15 good cause to issue a different ruling. The commission shall
16 explain in writing the reasons for adopting a ruling other than the
17 one issued by the administrative law judge.

18 SECTION 50. Subchapter K, Chapter 651, Occupations Code, is
19 amended by adding Section 651.5065 to read as follows:

20 Sec. 651.5065. INFORMAL PROCEEDINGS. (a) The commission
21 by rule shall adopt procedures governing:

22 (1) informal disposition of a contested case under
23 Section 2001.056, Government Code; and

24 (2) an informal proceeding held in compliance with
25 Section 2001.054, Government Code.

26 (b) Rules adopted under this section must:

27 (1) provide the complainant and the license holder an

1 opportunity to be heard; and

2 (2) require the presence of a representative of the
3 commission's legal staff or of the attorney general to advise the
4 commission or the commission's employees.

5 SECTION 51. Section 651.5515, Occupations Code, is
6 transferred to Subchapter K, Chapter 651, Occupations Code,
7 redesignated as Section 651.5075, Occupations Code, and amended to
8 read as follows:

9 Sec. 651.5075 [~~651.5515~~]. SANCTIONS SCHEDULE [~~PENALTY~~
10 ~~GUIDELINES~~]. (a) The commission by rule shall adopt a sanctions
11 schedule [~~guidelines that define and summarize the violations that~~
12 ~~occur under this subchapter to assist the commission in maintaining~~
13 ~~consistency in determining the amount of an administrative penalty~~
14 ~~assessed under Section 651.552. Using those guidelines and the~~
15 ~~summary, the commission shall establish and maintain a chart~~] that
16 lists:

17 (1) the most common violations that occur under this
18 chapter;

19 (2) the types of sanctions, including administrative
20 penalties, that may be imposed [~~penalty amounts assessed~~] for those
21 violations; and

22 (3) the factors used to determine the sanction that
23 may be imposed for [~~grade~~] each [~~type of~~] violation [~~before~~
24 ~~determining the penalty amount under Section 651.552~~].

25 (b) The commission shall [~~consider using focus groups to~~]
26 obtain business and consumer input to match appropriate sanctions
27 [~~penalties~~] to violations before proposing the rules under this

1 section.

2 (c) The commission shall post the schedule [~~guidelines~~] on
3 the commission's Internet website [~~site~~].

4 SECTION 52. Section 651.552(b), Occupations Code, is
5 amended to read as follows:

6 (b) In determining the amount of the penalty, the commission
7 shall base its decision on:

8 (1) the seriousness of the violation;

9 (2) the threat the violation poses to health and
10 safety;

11 (3) the history of previous violations;

12 (4) the amount necessary to deter a future violation;

13 (5) efforts made to correct the violation;

14 (6) the sanctions schedule [~~guidelines~~] adopted under
15 Section 651.5075 [~~651.5515~~]; and

16 (7) any other matter that justice requires.

17 SECTION 53. Section 651.602, Occupations Code, is amended
18 to read as follows:

19 Sec. 651.602. CRIMINAL PENALTY. (a) A person commits an
20 offense if the person:

21 (1) acts or holds the person out as a funeral director,
22 embalmer, or provisional license holder without being licensed
23 under this chapter;

24 (2) [~~makes a first call in a manner that~~] violates
25 Section 651.401;

26 (3) is a funeral director, embalmer, or provisional
27 license holder and engages in a funeral practice that violates this

1 chapter or a rule adopted under this chapter; or

2 (4) violates Chapter 154, Finance Code, or a rule
3 adopted under that chapter, regardless of whether the Texas
4 Department of Banking or another governmental agency takes action
5 relating to the violation.

6 (b) A person commits an offense if the person:

7 (1) participates in or influences the management or
8 operation of a funeral establishment;

9 (2) has held a license that was revoked, suspended, or
10 canceled by the commission; and

11 (3) does not hold a license issued by the commission.

12 (c) An offense under this section is a Class B misdemeanor.

13 SECTION 54. Section 651.652, Occupations Code, is amended
14 to read as follows:

15 Sec. 651.652. APPLICABILITY. (a) This subchapter applies
16 only to a crematory that sells goods or services related to the
17 ~~[burial or]~~ final disposition of a body.

18 SECTION 55. The following sections of the Occupations Code
19 are repealed:

20 (1) Section 651.257;

21 (2) Section 651.2595;

22 (3) Section 651.264;

23 (4) Section 651.354(d);

24 (5) Section 651.355;

25 (6) Sections 651.502(c) and (d);

26 (7) Section 651.5026;

27 (8) Section 651.504;

1 (9) Sections 651.506(g) and (h);

2 (10) Section 651.5061; and

3 (11) Section 651.559.

4 SECTION 56. Section 651.051(a)(2), Occupations Code, as
5 amended by this Act, applies only to a member of the Texas Funeral
6 Service Commission appointed on or after the effective date of this
7 Act. A member appointed before the effective date of this Act may
8 continue to serve until the expiration of the member's term.

9 SECTION 57. Sections 651.253 and 651.259, Occupations Code,
10 as amended by this Act, apply only to a person who applies for a
11 funeral director's license or embalmer's license on or after the
12 effective date of this Act. A person who applies for a funeral
13 director's license or embalmer's license before the effective date
14 of this Act is governed by the law in effect on the date the person
15 applied for that license, and the former law is continued in effect
16 for that purpose.

17 SECTION 58. Section 651.2661, Occupations Code, as
18 transferred, redesignated, and amended by this Act, applies only to
19 a person who applies for reinstatement of a license on or after the
20 effective date of this Act. A person who applies for renewal of a
21 license under former Section 651.165, Occupations Code, before the
22 effective date of this Act is governed by the law in effect on the
23 date the person applied for renewal, and the former law is continued
24 in effect for that purpose.

25 SECTION 59. Section 651.2662, Occupations Code, as
26 transferred, redesignated, and amended by this Act, applies only to
27 a person who applies for reinstatement of a license on or after the

1 effective date of this Act. A person who applies for renewal of a
2 license under former Section 651.1655, Occupations Code, before the
3 effective date of this Act is governed by the law in effect on the
4 date the person applied for renewal, and the former law is continued
5 in effect for that purpose.

6 SECTION 60. Section 651.267, Occupations Code, as amended
7 by this Act, applies only to a person who applies for reissuance of
8 a license on or after the effective date of this Act. A person who
9 applies for reissuance of a license before the effective date of
10 this Act is governed by the law in effect on the date the person
11 applied for reissuance, and the former law is continued in effect
12 for that purpose.

13 SECTION 61. Section 651.502, Occupations Code, as amended
14 by this Act, applies only to a person who applies for the issuance
15 or renewal of a license on or after the effective date of this Act. A
16 person who applies for the issuance or renewal of a license before
17 the effective date of this Act is governed by the law in effect on
18 the date the person applied, and the former law is continued in
19 effect for that purpose.

20 SECTION 62. Section 651.5029, Occupations Code, as added by
21 this Act, applies only to a violation that occurs on or after the
22 effective date of this Act. A violation that occurs before the
23 effective date of this Act is governed by the law in effect on the
24 date the violation occurred, and the former law is continued in
25 effect for that purpose.

26 SECTION 63. Section 651.505, Occupations Code, as amended
27 by this Act, applies only to a person placed on probation on or

1 after the effective date of this Act. A person placed on probation
2 before the effective date of this Act is governed by the law in
3 effect on the date the person was placed on probation, and the
4 former law is continued in effect for that purpose.

5 SECTION 64. Section 651.506, Occupations Code, as amended
6 by this Act, and Section 651.50601, Occupations Code, as
7 redesignated and amended by this Act, apply only to a proceeding
8 initiated on or after the effective date of this Act. A proceeding
9 initiated before the effective date of this Act is governed by the
10 law in effect on the date the proceeding was initiated, and the
11 former law is continued in effect for that purpose.

12 SECTION 65. This Act takes effect September 1, 2017.