

By: Estes

S.B. No. 1251

A BILL TO BE ENTITLED

AN ACT

relating to the Texas Funeral Service Commission; authorizing fees;
providing a criminal penalty.

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

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

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

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

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

(3) four members who represent the public and who:
(A) are not regulated under this chapter; and
(B) have consistently shown an interest in
supporting consumer protection.

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

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

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

651.052(a);

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

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

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

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

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

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

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

Sec. 651.151. GENERAL LICENSING POWERS AND DUTIES.

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

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

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;

(2) an authorized agent of the state; or

(3) an authorized agent of the county or municipality in which the premises is located.

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

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

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

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

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

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

(b) The~~[, and~~

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

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. Section 651.004, Occupations Code, is
9 transferred to Subchapter D, Chapter 651, Occupations Code, and
10 redesignated as Section 651.168, Occupations Code, to read as
11 follows:

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

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

20 SECTION 9. Section 651.201, Occupations Code, is amended by
21 adding Subsections (c) and (d) to read as follows:

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

25 (d) A funeral establishment may provide a link on the
26 establishment's website to the brochure on the commission's
27 website.

SECTION 10. Subchapter E, Chapter 651, Occupations Code, is amended by adding Section 651.2015 to read as follows:

Sec. 651.2015. WEBSITES. The commission may allow a funeral establishment that maintains a website to link to the commission's website.

SECTION 11. Section 651.202(a), Occupations Code, is amended to read as follows:

(a) The commission by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the commission for the purpose of directing complaints to the commission. The commission may provide for that notice:

(1) on each license form, application, or written contract for services of a person regulated under this chapter;

(2) on a sign prominently displayed in the place of business of each person regulated under this chapter; ~~or~~

(3) in a bill for service provided by a person regulated under this chapter; or

(4) any other place the commission considers appropriate.

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

(a) Subject to the commission's records retention policy, the ~~[The]~~ commission shall maintain a file on each written complaint filed with the commission. The file must include:

(1) the subject matter of the complaint;

(2) the date the complaint is received by the

1 commission;

2 (3) the name of the person who filed the complaint;

3 (4) the name of each person contacted in relation to
4 the complaint;

5 (5) a summary of the results of the review or
6 investigation of the complaint; and

7 (6) an explanation of the reason the file was closed,
8 if the commission closed the file without taking action other than
9 to investigate the complaint.

10 SECTION 13. Section 651.252, Occupations Code, is amended
11 to read as follows:

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

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

22 ~~[(c) The commission shall keep a permanent, alphabetical~~
23 ~~record of each license application and the action taken on the~~
24 ~~application. The record must indicate the current status of each~~
25 ~~application and license issued].~~

26 SECTION 14. Section 651.164, Occupations Code, is
27 transferred to Subchapter F, Chapter 651, Occupations Code,

redesignated as Section 651.2525, Occupations Code, and amended to read as follows:

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

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

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

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

- (1) be at least 18 years of age;
- (2) have graduated from an accredited high school or passed an examination prescribed by the Texas Education Agency;
- (3) have graduated from an accredited school or college of mortuary science;
- (4) unless the applicant holds a reciprocal [~~embalmer's~~] license, have served as a provisional license holder for not less than one year under the personal supervision and instruction of a funeral director or embalmer, as applicable; and

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

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

~~[(1)]~~ completes all of the requirements of the provisional license program before the end of the provisional license term ~~[, and~~

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

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

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

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

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

(2) local and state rules and laws relating to the preparation, transportation, care, and disposition of dead human bodies.

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

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

10 ~~[(c) If the examination is graded or reviewed by a testing~~
11 ~~service.~~

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

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

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

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

26 SECTION 17. Sections [651.255](#), [651.256](#), [651.258](#), and
27 [651.259](#), Occupations Code, are amended to read as follows:

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

4 [~~(1)~~] a written professionally prepared examination
5 on:

- 6 (1) [~~(A)~~] the art and technique of funeral directing;
7 (2) [~~(B)~~] the signs of death;
8 (3) [~~(C)~~] the manner by which death may be determined;
9 (4) [~~(D)~~] sanitation and hygiene;
10 (5) [~~(E)~~] mortuary management and mortuary law;
11 (6) [~~(F)~~] business and professional ethics; and
12 (7) [~~(G)~~] other subjects that may be taught in a
13 recognized school or college of mortuary science[~~, and~~

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

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

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

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

24 [~~(1)~~] a written professionally prepared examination
25 on:

- 26 (1) [~~(A)~~] the anatomy of the human body, including:

27 (A) [~~(i)~~] the cavities of the human body; and

(B) ~~[(ii)]~~ the arterial and venous system of the human body;

(2) ~~[(B)]~~ blood and discoloration;

(3) ~~[(C)]~~ bacteriology and hygiene;

(4) ~~[(D)]~~ pathology;

(5) ~~[(E)]~~ chemistry and embalming;

(6) ~~[(F)]~~ arterial and cavity embalming;

(7) ~~[(G)]~~ restorative art;

(8) ~~[(H)]~~ disinfecting;

(9) ~~[(I)]~~ embalming special cases;

(10) ~~[(J)]~~ contagious and infectious diseases;

(11) ~~[(K)]~~ mortuary management;

(12) ~~[(L)]~~ care, preservation, transportation, and disposition of dead human bodies;

(13) ~~[(M)]~~ sanitary science; and

(14) ~~[(N)]~~ other subjects that may be taught in a recognized school or college of mortuary science ~~[, and~~

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

~~[(A) laws applicable to vital statistics pertaining to dead human bodies; and~~

~~[(B) local and state rules and laws relating to the care and disposition of dead human bodies].~~

Sec. 651.258. LICENSE ISSUANCE. On issuance of a funeral director's license or an embalmer's license under this chapter, a majority of the commission members shall sign the license. A ~~The~~ license issued by the commission authorizes the license holder to

1 practice embalming, funeral directing, or both.

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

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

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

16 (1) a sworn statement that:

17 (A) the applicant is the person to whom the
18 license was issued;

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

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

27 (D) [~~(C)~~] no prosecution is pending against the

1 applicant in a state or federal court for an offense that, under the
2 laws of this state, is a felony, or is a misdemeanor related to the
3 practice of embalming or funeral directing; ~~and~~

4 (2) an affidavit of a person described by Subsection
5 (c) verifying that:

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

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

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

12 (c) The affidavit must be made by:

13 (1) the presiding officer or secretary of the
14 governmental entity that issued the license; or

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

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

21 (e) ~~[The commission shall conduct a criminal background~~
22 ~~check on each applicant.]~~ An applicant is not eligible for a
23 license under this section if the applicant has, in the 10 years
24 preceding the date of the application, been finally convicted of a
25 misdemeanor involving moral turpitude or a felony.

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

27 ~~[(1)]~~ provide proof that~~+~~

1 ~~[(A) the license is in good standing,~~
2 ~~[(B)]~~ the applicant has practiced under the
3 license for at least:

4 (1) ~~[(i)]~~ one year in the state, country, or territory
5 that issued the license if that state, country, or territory has
6 license requirements substantially equivalent to those of this
7 state; or

8 (2) ~~[(ii)]~~ five years in the state, country, or
9 territory that issued the license if that state, country, or
10 territory does not have license requirements substantially
11 equivalent to those of this state.

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

14 ~~[(C) the applicant has graduated from an~~
15 ~~accredited college of mortuary science, and~~

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

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

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

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

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

27 (a) If a license issued under this chapter is lost or

1 destroyed, the license holder may apply to the commission for a
2 replacement ~~[duplicate]~~ license.

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

6 SECTION 20. Section 651.261, Occupations Code, is amended
7 to read as follows:

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

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

16 SECTION 21. Section 651.266, Occupations Code, is amended
17 to read as follows:

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

25 SECTION 22. Section 651.165, Occupations Code, is
26 transferred to Subchapter F, Chapter 651, Occupations Code,
27 redesignated as Section 651.2661, Occupations Code, and amended to

1 read as follows:

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

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

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

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

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

19 (2) paying any applicable fees, including a renewal
20 fee that is equal to two times the normally required renewal fee;
21 and

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

24 (e) A person who was licensed in this state, moved to
25 another state, and is currently licensed and has been in practice in
26 the other state for the two years preceding the date of application
27 may obtain a new license without reexamination if both licenses are

1 in good standing. The person must pay to the commission a fee that
2 is equal to two times the normally required renewal fee for the
3 license.

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

8 SECTION 23. Section [651.1655](#), Occupations Code, is
9 transferred to Subchapter F, Chapter 651, Occupations Code,
10 redesignated as Section 651.2662, Occupations Code, and amended to
11 read as follows:

12 Sec. [651.2662](#) [~~651.1655~~]. REINSTATEMENT OF SUSPENDED
13 LICENSE. If authorized by the commission, a [A] person whose
14 license has been suspended may reinstate [~~renew~~] the license by:

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

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

19 (3) completing any continuing education required
20 under Section [651.266](#); and

21 (4) passing with a score of at least 75 percent the
22 examination under Section [651.254](#).

23 SECTION 24. Sections [651.267](#)(c) and (d), Occupations Code,
24 are amended to read as follows:

25 (c) A hearing to determine whether to reissue a license
26 shall be held before the commission unless the commission requires
27 the hearing to be held before an administrative law judge [~~a~~

1 ~~hearings officer~~].

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

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

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

8 (3) satisfies any other commission requirements,
9 including any continuing education requirements under Section
10 651.266; and

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

12 SECTION 25. Section 651.302, Occupations Code, is amended
13 to read as follows:

14 Sec. 651.302. APPLICATION; ISSUANCE OF PROVISIONAL
15 LICENSE. (a) The commission shall issue a provisional license to
16 practice funeral directing to an applicant who:

17 (1) is at least 18 years of age;

18 (2) has completed the educational requirements of
19 Section 651.253 or is enrolled in an accredited school or college of
20 mortuary science;

21 (3) is employed by a funeral establishment ~~[director]~~
22 to learn funeral directing ~~[or embalming]~~ under the instruction and
23 supervision of a ~~[the]~~ funeral director;

24 (4) files an application for a provisional license on
25 a form provided by the commission and verified under oath by the
26 applicant; ~~[and]~~

27 (5) pays any required application or license fee; and

1 (6) complies with the requirements of this chapter and
2 of the commission.

3 (b) The commission shall issue a provisional license to
4 practice embalming to an applicant who:

5 (1) is at least 18 years of age;

6 (2) has completed the educational requirements of
7 Section 651.253 or is enrolled in an accredited school or college of
8 mortuary science;

9 (3) is employed by a funeral establishment or
10 commercial embalming facility to learn embalming under the
11 instruction and supervision of an embalmer;

12 (4) files an application for a provisional license on
13 a form provided by the commission and verified under oath by the
14 applicant;

15 (5) [~~4~~] pays any required application or license
16 fee; and

17 (6) [~~5~~] complies with the requirements of this
18 chapter and of the commission.

19 (c) The commission may waive the requirements of Subsection
20 (a)(2) or (b)(2) for a period not to exceed 12 months and issue to an
21 applicant a provisional license that expires at the end of that
22 period.

23 (d) An applicant must submit to a criminal background check
24 before submitting an application for a license.

25 SECTION 26. Section 651.303, Occupations Code, is amended
26 by adding Subsections (a-1) and (e-1) to read as follows:

27 (a-1) A provisional license holder may work only:

1 (1) in a funeral establishment or commercial embalming
2 facility licensed by the commission; and

3 (2) under the direct and personal supervision of a
4 funeral director or embalmer, as applicable.

5 (e-1) The commission by rule shall prescribe case reporting
6 requirements for provisional license holders. The commission shall
7 provide case report forms to be used by a provisional license
8 holder.

9 SECTION 27. The heading to Section 651.304, Occupations
10 Code, is amended to read as follows:

11 Sec. 651.304. EMPLOYMENT NOTIFICATION ~~[REPORTS]~~.

12 SECTION 28. Section 651.304, Occupations Code, is amended
13 by amending Subsections (a) and (d) and adding Subsection (b) to
14 read as follows:

15 (a) On entering employment with a funeral establishment or
16 commercial embalming facility ~~[director or embalmer]~~, a
17 provisional license holder shall immediately notify the commission
18 of the name of the establishment or facility where ~~[and place of~~
19 ~~business of the funeral director or embalmer under whom]~~ the
20 provisional license holder will train. The funeral director or
21 embalmer in charge must ~~[shall]~~ sign the notification.

22 (b) A provisional license holder must be employed by a
23 funeral establishment or commercial embalming facility, as
24 applicable, during the term of the provisional license. If a
25 provisional license holder is not employed as required by this
26 subsection, the commission shall cancel the provisional license.

27 (d) If a provisional license holder leaves the employment of

1 the funeral establishment or commercial embalming facility [~~a~~
2 ~~funeral director or embalmer~~], the funeral director or embalmer in
3 charge shall prepare an affidavit showing the length of time the
4 provisional license holder was employed and the number of cases
5 handled while employed by the funeral establishment or facility
6 [~~director or embalmer~~]. The funeral director or embalmer shall
7 file the original affidavit [~~shall be filed~~] with the commission as
8 [~~and made~~] a matter of record. The funeral director or embalmer
9 shall provide a [A] copy of the affidavit [~~shall be furnished~~] to
10 the provisional license holder.

11 SECTION 29. Subchapter G, Chapter 651, Occupations Code, is
12 amended by adding Section 651.3045 to read as follows:

13 Sec. 651.3045. TERM OF PROVISIONAL LICENSE. (a) Except as
14 provided by Subsection (c), a provisional license is valid for 12
15 consecutive months and may be renewed only once for a period not to
16 exceed an additional 12 consecutive months.

17 (b) The commission shall cancel a provisional license if the
18 license holder fails to complete the licensing requirements of the
19 provisional license program within 24 consecutive months.

20 (c) If a provisional license holder holds a provisional
21 license issued under Section 651.302(c), the provisional license
22 may be renewed for a period not to exceed 24 consecutive months and
23 the provisional license holder must complete the licensing
24 requirements of the provisional license program within 36
25 consecutive months.

26 SECTION 30. Section 651.305, Occupations Code, is amended
27 by amending Subsections (c) and (d) and adding Subsections (d-1),

(d-2), and (d-3) to read as follows:

(c) If a provisional license holder fails to renew the provisional license ~~[timely pay the renewal fee]~~, the commission shall:

(1) impose a late payment penalty equal to the amount of the license renewal fee;

(2) suspend the license for nonpayment; and

(3) notify the provisional license holder of the suspension.

(d) If the renewal fee and penalty are not paid before the 91st day after the date of the notice of suspension, the commission shall cancel the license.

(d-1) If the license is canceled under Subsection (d) ~~[this subsection]~~, the provisional license holder may apply for reinstatement not later than the date the license would have expired if the license had been renewed ~~[not later than 18 months after the date of cancellation]~~. The commission may reinstate the canceled license if:

(1) all other commission requirements are satisfied; and

(2) the license fee and a late payment penalty equal to the amount of the license fee for the period of the cancellation are paid.

(d-2) A reinstated license expires on the date the license would have expired if the license had been timely renewed.

(d-3) A provisional license holder may not work as a funeral director or embalmer while the license is suspended or canceled.

SECTION 31. Subchapter G, Chapter 651, Occupations Code, is amended by adding Section 651.3055 to read as follows:

Sec. 651.3055. REAPPLICATION FOR PROVISIONAL LICENSE. (a) A person who does not complete the provisional license program within the prescribed period may reapply for a provisional license.

(b) A person who reapplies for a provisional license must comply with the requirements of Section 651.303. Casework performed under a previous provisional license may not be counted toward the requirements for the new provisional license. The commission may adopt rules to allow casework performed under a previous provisional license to transfer to a new provisional license if the license holder requests a hardship exemption.

(c) A person may reapply for a provisional license under this section only once.

SECTION 32. The heading to Subchapter H, Chapter 651, Occupations Code, is amended to read as follows:

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

SECTION 33. Section 651.351, Occupations Code, is amended by amending Subsections (d), (f), (g), and (h) and adding Subsection (h-1) to read as follows:

- (d) A funeral establishment must:
- (1) meet the building, fire safety, and health standards and health ordinances of this state and of the municipality in which the establishment is located;
 - (2) except as provided by Subsection (i), be located at a fixed place that is not tax-exempt property or a cemetery;

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

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

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

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

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

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

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

(1) in a partial panel display; or

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

(g) The commission may exempt a funeral establishment from

the requirements of Subsection (d)(5) if~~+~~

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

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

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

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

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

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

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

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

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

SECTION 34. The heading to Section 651.352, Occupations Code, is amended to read as follows:

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

SECTION 35. Sections 651.352(a), (b), (c), and (e), Occupations Code, are amended to read as follows:

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

(1) embalms for other licensed funeral establishments; and

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

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

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

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

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

SECTION 36. Section 651.401, Occupations Code, is amended to read as follows:

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

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

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

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

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

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

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

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

and

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

~~[(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 37. 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 38. 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~~

~~the funeral establishment.]~~

SECTION 39. Section 651.407(c), Occupations Code, is amended to read as follows:

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

(1) the commission; and

(2) the person who provided the consent, as provided by Section 711.002, Health and Safety Code [~~, and~~
~~[(3) the next of kin of the deceased person]~~].

SECTION 40. The heading to Section 651.454, Occupations Code, is amended to read as follows:

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

SECTION 41. Section 651.454(a), Occupations Code, is amended to read as follows:

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

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

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

(3) explain to a prospective customer that a purchase [~~contractual~~] agreement for funeral services or merchandise may not 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 42. 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 43. 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 44. Section 651.459(a), Occupations Code, is
18 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 SECTION 45. Section [651.461](#), Occupations Code, is amended
25 to read as follows:

26 Sec. 651.461. DEFENSE TO VIOLATION. A person licensed
27 under this chapter does not violate this chapter by engaging in

conduct regarding funeral arrangements under the direction of a person who:

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

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

SECTION 46. Section 651.508, Occupations Code, is transferred to Subchapter J, Chapter 651, Occupations Code, redesignated as Section 651.462, Occupations Code, and amended to read as follows:

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

SECTION 47. Section 651.501(a), Occupations Code, is amended to read as follows:

(a) The [~~After a hearing as provided by this subchapter, the~~] commission may issue a letter of warning [~~reprimand~~], assess an administrative penalty, revoke or [~~7~~] suspend a license, place a license holder on probation [~~or probate the suspension of a license or provisional license~~], or impose any combination of those penalties if the commission determines that a person regulated under this chapter has violated [~~for a violation of~~] this chapter or a rule adopted under this chapter.

SECTION 48. Subchapter K, Chapter 651, Occupations Code, is amended by adding Section 651.5012 to read as follows:

1 Sec. 651.5012. CHARGING FUNERAL ESTABLISHMENT WITH
2 VIOLATION. Notwithstanding Section 651.501(b), in determining
3 whether to charge a funeral establishment with a violation, the
4 commission may consider:

5 (1) the nature and seriousness of the violation; and
6 (2) the extent to which the owner or manager of the
7 funeral establishment made any decision that led to the conduct
8 that constitutes a violation.

9 SECTION 49. The heading to Section 651.502, Occupations
10 Code, is amended to read as follows:

11 Sec. 651.502. LICENSE DENIAL[~~, — EFFECT OF CRIMINAL~~
12 ~~CONVICTION~~].

13 SECTION 50. Section 651.502, Occupations Code, is amended
14 by amending Subsections (a) and (b) and adding Subsection (a-1) to
15 read as follows:

16 (a) After a hearing before the commission, the [The]
17 commission may[~~, before a hearing or a waiver of a right to a~~
18 ~~hearing,~~] refuse to issue or renew:

19 (1) a license or provisional license to a person who
20 has violated this chapter or a rule adopted under this chapter or
21 who has a criminal conviction; or

22 (2) an establishment license to an individual,
23 partnership, or corporation if the individual, a partner, or an
24 officer or director of the corporation:

25 (A) has violated this chapter or a rule adopted
26 under this chapter;

27 (B) previously held an establishment license

1 that was suspended or revoked; or

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

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

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

12 SECTION 51. The heading to Section 651.503, Occupations
13 Code, is amended to read as follows:

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

15 SECTION 52. Section 651.503(a), Occupations Code, is
16 amended to read as follows:

17 (a) The commission shall issue a written warning to a
18 license holder if the commission:

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

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

24 SECTION 53. Section 651.505, Occupations Code, is amended
25 by amending Subsection (a) and adding Subsection (d) to read as
26 follows:

27 (a) If the commission places a license holder on probation

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

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

8 (2) limit practice to the areas prescribed by the
9 commission; or

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

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

19 SECTION 54. Section [651.506](#)(a), Occupations Code, is
20 amended to read as follows:

21 (a) A proceeding conducted by the commission relating to an
22 appeal of the denial of a license or provisional license, the
23 suspension or revocation of a license, ~~[the issuance of a~~
24 ~~reprimand,~~ or the imposition of an administrative penalty under
25 Subchapter L ~~[assessed after a hearing as provided by Section~~
26 ~~[651.551](#)~~ and judicial review of the proceeding are governed by
27 Chapter 2001, Government Code.

SECTION 55. Section 651.506(f), Occupations Code, is redesignated as Section 651.50601, Occupations Code, and amended to read as follows:

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

SECTION 56. Subchapter K, Chapter 651, Occupations Code, is amended by adding Section 651.5029 to read as follows:

Sec. 651.5029. REPORT AND NOTICE OF VIOLATION AND PENALTY.
(a) If, after examining a possible violation and the facts relating to that violation, the commission determines that a violation has occurred, the commission shall issue a preliminary report stating:

(1) the facts on which the determination is based;
(2) that a sanction may be imposed; and
(3) the types of sanctions that may be imposed for the violation.

(b) Not later than the 10th day after the date the report is issued, the commission shall send to the person charged with the violation:

(1) a copy of the report;

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

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

5 (4) a statement that the person may request an
6 informal proceeding.

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

12 SECTION 57. Subchapter K, Chapter 651, Occupations Code, is
13 amended by adding Section 651.5065 to read as follows:

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

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

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

20 (b) Rules adopted under this section must:

21 (1) provide the complainant and the license holder an
22 opportunity to be heard; and

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

26 SECTION 58. Section 651.5515, Occupations Code, is
27 transferred to Subchapter K, Chapter 651, Occupations Code,

redesignated as Section 651.5075, Occupations Code, and amended to read as follows:

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

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

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

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

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

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

SECTION 59. Section 651.552(b), Occupations Code, is amended to read as follows:

(b) In determining the amount of the penalty, the commission

1 shall base its decision on:

- 2 (1) the seriousness of the violation;
- 3 (2) the threat the violation poses to health and
4 safety;
- 5 (3) the history of previous violations;
- 6 (4) the amount necessary to deter a future violation;
- 7 (5) efforts made to correct the violation;
- 8 (6) the sanctions schedule [~~guidelines~~] adopted under
9 Section 651.5075 [~~651.5515~~]; and
- 10 (7) any other matter that justice requires.

11 SECTION 60. Section 651.602, Occupations Code, is amended
12 by amending Subsection (b) and adding Subsection (c) to read as
13 follows:

- 14 (b) A person commits an offense if the person:
- 15 (1) participates in or influences the management or
16 operation of a funeral establishment;
 - 17 (2) has held a license that was revoked, suspended, or
18 canceled by the commission; and
 - 19 (3) does not hold a license issued by the commission.

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

21 SECTION 61. Section 651.652, Occupations Code, is amended
22 to read as follows:

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

26 SECTION 62. The following sections of the Occupations Code
27 are repealed:

- 1 (1) Section 651.257;
- 2 (2) Section 651.2595;
- 3 (3) Section 651.264;
- 4 (4) Sections 651.303(b) and (c);
- 5 (5) Section 651.304(e);
- 6 (6) Section 651.305(e) and (f);
- 7 (7) Section 651.354(d);
- 8 (8) Section 651.355;
- 9 (9) Sections 651.502(c) and (d);
- 10 (10) Section 651.5026;
- 11 (11) Section 651.504;
- 12 (12) Sections 651.506(g) and (h);
- 13 (13) Section 651.5061; and
- 14 (14) Section 651.559.

15 SECTION 63. Section 651.051(a)(2), Occupations Code, as
16 amended by this Act, applies only to a member of the Texas Funeral
17 Service Commission appointed on or after the effective date of this
18 Act. A member appointed before the effective date of this Act may
19 continue to serve until the expiration of the member's term.

20 SECTION 64. Sections 651.253 and 651.258, Occupations Code,
21 as amended by this Act, apply only to a person who applies for a
22 funeral director's license or embalmer's license on or after the
23 effective date of this Act. A person who applies for a funeral
24 director's license or embalmer's license before the effective date
25 of this Act is governed by the law in effect on the date the person
26 applied for that license, and the former law is continued in effect
27 for that purpose.

1 SECTION 65. Section 651.2661, Occupations Code, as
2 transferred, redesignated, and amended by this Act, applies only to
3 a person who applies for reinstatement of a license on or after the
4 effective date of this Act. A person who applies for renewal of a
5 license under former Section 651.165, Occupations Code, before the
6 effective date of this Act is governed by the law in effect on the
7 date the person applied for renewal, and the former law is continued
8 in effect for that purpose.

9 SECTION 66. Section 651.2662, Occupations Code, as
10 transferred, redesignated, and amended by this Act, applies only to
11 a person who applies for reinstatement of a license on or after the
12 effective date of this Act. A person who applies for reinstatement
13 of a license under former Section 651.1655, Occupations Code,
14 before the effective date of this Act is governed by the law in
15 effect on the date the person applied for reinstatement, and the
16 former law is continued in effect for that purpose.

17 SECTION 67. Section 651.267, Occupations Code, as amended
18 by this Act, applies only to a person who applies for reissuance of
19 a license on or after the effective date of this Act. A person who
20 applies for reissuance of a license before the effective date of
21 this Act is governed by the law in effect on the date the person
22 applied for reissuance, and the former law is continued in effect
23 for that purpose.

24 SECTION 68. Section 651.502, Occupations Code, as amended
25 by this Act, applies only to a person who applies for the issuance
26 or renewal of a license on or after the effective date of this Act. A
27 person who applies for the issuance or renewal of a license before

1 the effective date of this Act is governed by the law in effect on
2 the date the person applied, and the former law is continued in
3 effect for that purpose.

4 SECTION 69. Section 651.505, Occupations Code, as amended
5 by this Act, applies only to a person placed on probation on or
6 after the effective date of this Act. A person placed on probation
7 before the effective date of this Act is governed by the law in
8 effect on the date the person was placed on probation, and the
9 former law is continued in effect for that purpose.

10 SECTION 70. Section 651.506, Occupations Code, as amended
11 by this Act, and Section 651.50601, Occupations Code, as
12 redesignated and amended by this Act, apply only to a proceeding
13 initiated on or after the effective date of this Act. A proceeding
14 initiated before the effective date of this Act is governed by the
15 law in effect on the date the proceeding was initiated, and the
16 former law is continued in effect for that purpose.

17 SECTION 71. Section 651.5029, Occupations Code, as added by
18 this Act, applies only to a violation that occurs on or after the
19 effective date of this Act. A violation that occurs before the
20 effective date of this Act is governed by the law in effect on the
21 date the violation occurred, and the former law is continued in
22 effect for that purpose.

23 SECTION 72. This Act takes effect September 1, 2015.