

By: Estes

S.B. No. 983

A BILL TO BE ENTITLED

1 AN ACT  
2 relating to the Texas Funeral Service Commission; authorizing fees.

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

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

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

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

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

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

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

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

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

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

22 (1) does not have at the time of appointment the  
23 qualifications required by Sections 651.051(a) and (c) and  
24 651.052(a);

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

4           (3) violates a prohibition established by Section  
5 651.053 [~~Sections 651.053(a)-(e) or 651.506(h)~~];

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

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

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

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

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

18           Sec. 651.151. GENERAL LICENSING POWERS AND DUTIES.

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

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

26         SECTION 6. Section 651.154, Occupations Code, is amended to  
27 read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

14           (d) The commission by rule shall establish:

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

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

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

26               (1) an agent of the commission;

27               (2) an authorized agent of the state; or

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

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

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

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

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

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

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

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

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

26 Sec. 651.158. INSPECTION OF CERTAIN FACILITIES. (a) The  
27 commission may require a funeral establishment that has solid waste

1 disposal and sanitation facilities that have not been inspected by  
2 the [~~Texas~~] Department of State Health Services to obtain  
3 inspection of those facilities by an entity other than the [~~Texas~~]  
4 Department of State Health Services.

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

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

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

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

15 (2) establishes procedures by which each agency:

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

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

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

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

26 SECTION 9. Section 651.004, Occupations Code, is  
27 transferred to Subchapter D, Chapter 651, Occupations Code, and

1 redesignated as Section 651.168, Occupations Code, to read as  
2 follows:

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

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

11       SECTION 10. Section 651.201, Occupations Code, is amended  
12 by adding Subsection (c) to read as follows:

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

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

18       Sec. 651.2015. INTERNET WEBSITES. The commission may allow  
19 a funeral establishment that maintains an Internet website to link  
20 to the commission's Internet website.

21       SECTION 12. Section 651.203, Occupations Code, is amended  
22 to read as follows:

23       Sec. 651.203. RECORD OF COMPLAINTS. (a) The commission  
24 shall maintain a record [~~file~~] on each written complaint filed with  
25 the commission. The record [~~file~~] must include:

- 26               (1) the subject matter of the complaint;  
27               (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 complaint [~~file~~]  
8 was closed, if the commission closed the complaint [~~file~~] without  
9 taking action other than to investigate the complaint.

10 (b) Information in a record [~~file~~] maintained under this  
11 section, other than information relating to a complaint that has  
12 not reached a final disposition, is public information.

13 SECTION 13. Section [651.252](#), Occupations Code, is amended  
14 to read as follows:

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

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

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



1 ~~application and license issued~~].

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

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

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

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

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

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

1 have completed the requirements of the provisional license program;  
2 and

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

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

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

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

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

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

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

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

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

1 bodies.

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

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

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

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

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

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

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

27 SECTION 17. Sections 651.255, 651.256, 651.258, and

1 651.259, Occupations Code, are amended to read as follows:

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

1                    (A) [~~(i)~~] the cavities of the human body; and  
2                    (B) [~~(ii)~~] the arterial and venous system of the  
3 human body;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

25                   Sec. 651.258. LICENSE ISSUANCE. On issuance of a funeral  
26 director's license or an embalmer's license under this chapter, a  
27 majority of the commission members shall sign the license. A [~~The~~

1 license issued by the commission authorizes the license holder to  
2 practice embalming, funeral directing, or both.

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

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

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

17 (1) a sworn statement that:

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

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

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

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

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

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

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

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

13                    (c) The affidavit must be made by:

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

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

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

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

1        (e) [~~(f)~~] An applicant for a license under this section  
2 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) 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 (7) [~~(f)~~].

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

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

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

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

27 (b) A dead human body may be transferred without a funeral

1 director directing [~~personally making~~] the transfer at the  
2 direction of a justice of the peace or other law enforcement  
3 official[-

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

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

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

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

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

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

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

26 [~~(3)~~] making any disclosure to the family member or  
27 other person that is required by federal or state law or regulation.



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

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

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

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

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

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

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

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

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

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

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

- 6 (1) the commission; and  
7 (2) the person who provided the consent, as provided  
8 by Section 711.002, Health and Safety Code [~~and~~  
9 [~~(3) the next of kin of the deceased person~~].

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

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

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

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

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

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

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

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

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

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

7           (1) embalms a body without:

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

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

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

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

21           (3) ~~[(4)]~~ places a chemical or substance on or in a  
22 dead human body to disinfect or preserve the body or to restore body  
23 tissues and structures without holding an embalmer's license.

24           (b) Notwithstanding Subsection (a)(3) ~~[(a)(4)]~~, a  
25 provisional license holder does not violate this chapter if the  
26 provisional license holder places a chemical or substance on or in a  
27 dead human body to disinfect or preserve the body or to restore body

1 tissues and structures under the supervision of an embalmer.

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

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

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

14 Sec. 651.459. ~~OTHER~~ UNETHICAL CONDUCT IN PROVIDING  
15 FUNERAL SERVICES.

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

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

19 (1) wilfully makes a false statement on:

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

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

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

27 ~~(3) engages in~~ dishonest ~~conduct~~, wilful,

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

5 (3) [~~(4)~~] causes the execution of a document by the  
6 use of fraud, deceit, or misrepresentation;

7 (4) [~~(5)~~] directly or indirectly employs a person to  
8 solicit individuals or institutions by whose influence dead human  
9 bodies may be turned over to a particular funeral director,  
10 embalmer, or funeral establishment;

11 (5) [~~(6)~~] misappropriates funds held by a license  
12 holder, a funeral establishment, an employee or agent of the  
13 funeral establishment, or another depository, that create an  
14 obligation to provide a funeral service or merchandise, including  
15 retaining for an unreasonable time excess funds paid by or on behalf  
16 of the customer for which the customer is entitled to a refund; or

17 (6) [~~(7)~~] performs acts of funeral directing or  
18 embalming that are outside the licensed scope and authority of the  
19 license holder, or performs acts of funeral directing or embalming  
20 in a capacity other than that of an employee, agent, subcontractor,  
21 or assignee of a licensed funeral establishment that has contracted  
22 to perform those acts.

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

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

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

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

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

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

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

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

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

1 under this chapter has violated [~~for a violation of~~] this chapter or  
2 a rule adopted under this chapter.

3 SECTION 41. The heading to Section 651.502, Occupations  
4 Code, is amended to read as follows:

5 Sec. 651.502. LICENSE DENIAL[~~, EFFECT OF CRIMINAL~~  
6 ~~CONVICTION~~].

7 SECTION 42. Section 651.502, Occupations Code, is amended  
8 by amending Subsections (a) and (b) and adding Subsection (a-1) to  
9 read as follows:

10 (a) After a hearing before the commission, the [~~The~~]  
11 commission may[~~, before a hearing or a waiver of a right to a~~  
12 ~~hearing,~~] refuse to issue or renew:

13 (1) a license or provisional license to a person who  
14 has violated this chapter or a rule adopted under this chapter or  
15 who has a criminal conviction; or

16 (2) an establishment license to an individual,  
17 partnership, or corporation if the individual, a partner, or an  
18 officer or director of the corporation:

19 (A) has violated this chapter or a rule adopted  
20 under this chapter;

21 (B) previously held an establishment license  
22 that was suspended or revoked; or

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

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

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

6 SECTION 43. Subchapter K, Chapter 651, Occupations Code, is  
7 amended by adding Section 651.5029 to read as follows:

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

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

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

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

14 (3) the types of sanctions that may be imposed for the  
15 violation.

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

19 (1) a copy of the report;

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

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

24 (4) a statement that the person may request an  
25 informal proceeding.

26 (c) Until a hearing has been held on the possible violation,  
27 the possible violation and the sanctions that may be imposed may be



1 disclosed only to the person charged with the violation, unless  
2 that person has waived the right to a hearing or paid the amount to  
3 the commission.

4 SECTION 44. The heading to Section 651.503, Occupations  
5 Code, is amended to read as follows:

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

7 SECTION 45. Section 651.503(a), Occupations Code, is  
8 amended to read as follows:

9 (a) The commission shall issue a written warning to a  
10 license holder if the commission:

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

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

16 SECTION 46. Section 651.505, Occupations Code, is amended  
17 by amending Subsection (a) and adding Subsection (d) to read as  
18 follows:

19 (a) If the commission places a license holder on probation  
20 [~~a person whose license has been suspended~~], the commission may  
21 impose conditions on the probation that are reasonable and related  
22 to the reason the license holder was placed on probation [~~violation~~  
23 ~~for which the license was suspended~~]. If the commission orders  
24 probation, the commission may require the license holder to:

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

27 (2) limit practice to the areas prescribed by the

1 commission; or

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

5 (d) The commission may suspend or revoke the license of a  
6 license holder without a hearing if the commission determines the  
7 license holder violated the terms of probation. The license holder  
8 may appeal the decision by submitting a written request for a  
9 hearing in accordance with this chapter and Chapter 2001,  
10 Government Code, not later than the 30th day after the date of the  
11 suspension or revocation.

12 SECTION 47. Section 651.506(a), Occupations Code, is  
13 amended to read as follows:

14 (a) A proceeding conducted by the commission relating to an  
15 appeal of the denial of a license or provisional license, the  
16 suspension or revocation of a license, [~~the issuance of a~~  
17 ~~reprimand,~~] or the imposition of an administrative penalty under  
18 Subchapter L [~~assessed after a hearing as provided by Section~~  
19 ~~651.551~~] and judicial review of the proceeding are governed by  
20 Chapter 2001, Government Code.

21 SECTION 48. Section 651.506(f), Occupations Code, is  
22 redesignated as Section 651.50601, Occupations Code, and amended to  
23 read as follows:

24 Sec. 651.50601. DECISION BY COMMISSION. [~~(f)~~] The  
25 commission shall review the findings of fact, conclusions of law,  
26 and ruling of the administrative law judge in a proceeding under  
27 Section 651.506 before making its final ruling in the proceeding.

1 The commission may also review a transcript of the proceeding  
2 before making its final ruling. The commission shall adopt the  
3 ruling of the administrative law judge as its ruling unless it finds  
4 good cause to issue a different ruling. The commission shall  
5 explain in writing the reasons for adopting a ruling other than the  
6 one issued by the administrative law judge.

7 SECTION 49. Subchapter K, Chapter 651, Occupations Code, is  
8 amended by adding Section 651.5065 to read as follows:

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

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

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

15 (b) Rules adopted under this section must:

16 (1) provide the complainant and the license holder an  
17 opportunity to be heard; and

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

21 SECTION 50. Section 651.5515, Occupations Code, is  
22 transferred to Subchapter K, Chapter 651, Occupations Code,  
23 redesignated as Section 651.5075, Occupations Code, and amended to  
24 read as follows:

25 Sec. 651.5075 [~~651.5515~~]. SANCTIONS SCHEDULE [~~PENALTY~~  
26 ~~GUIDELINES~~]. (a) The commission by rule shall adopt a sanctions  
27 schedule [~~guidelines that define and summarize the violations that~~

1 ~~occur under this subchapter to assist the commission in maintaining~~  
2 ~~consistency in determining the amount of an administrative penalty~~  
3 ~~assessed under Section 651.552. Using those guidelines and the~~  
4 ~~summary, the commission shall establish and maintain a chart] that~~  
5 lists:

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

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

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

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

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

20 SECTION 51. Section 651.552(b), Occupations Code, is  
21 amended to read as follows:

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

24 (1) the seriousness of the violation;

25 (2) the threat the violation poses to health and  
26 safety;

27 (3) the history of previous violations;

- 1 (4) the amount necessary to deter a future violation;
- 2 (5) efforts made to correct the violation;
- 3 (6) the sanctions schedule [~~guidelines~~] adopted under
- 4 Section 651.5075 [~~651.5515~~]; and
- 5 (7) any other matter that justice requires.

6 SECTION 52. Section 651.602(a), Occupations Code, is

7 amended to read as follows:

- 8 (a) A person commits an offense if the person:
  - 9 (1) acts or holds the person out as a funeral director,
  - 10 embalmer, or provisional license holder without being licensed
  - 11 under this chapter;
  - 12 (2) [~~makes a first call in a manner that~~] violates
  - 13 Section 651.401;
  - 14 (3) is a funeral director, embalmer, or provisional
  - 15 license holder and engages in a funeral practice that violates this
  - 16 chapter or a rule adopted under this chapter; or
  - 17 (4) violates Chapter 154, Finance Code, or a rule
  - 18 adopted under that chapter, regardless of whether the Texas
  - 19 Department of Banking or another governmental agency takes action
  - 20 relating to the violation.

21 SECTION 53. 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 54. 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) Section 651.354(d);
- 5 (5) Section 651.355;
- 6 (6) Sections 651.502(c) and (d);
- 7 (7) Section 651.5026;
- 8 (8) Section 651.504;
- 9 (9) Sections 651.506(g) and (h);
- 10 (10) Section 651.5061; and
- 11 (11) Section 651.559.

12 SECTION 55. Section 651.051(a)(2), Occupations Code, as  
13 amended by this Act, applies only to a member of the Texas Funeral  
14 Service Commission appointed on or after the effective date of this  
15 Act. A member appointed before the effective date of this Act may  
16 continue to serve until the expiration of the member's term.

17 SECTION 56. Sections 651.253 and 651.259, Occupations Code,  
18 as amended by this Act, apply only to a person who applies for a  
19 funeral director's license or embalmer's license on or after the  
20 effective date of this Act. A person who applies for a funeral  
21 director's license or embalmer's license before the effective date  
22 of this Act is governed by the law in effect on the date the person  
23 applied for that license, and the former law is continued in effect  
24 for that purpose.

25 SECTION 57. Section 651.2661, 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 651.165, 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 58. Section 651.2662, Occupations Code, as  
7 transferred, redesignated, and amended by this Act, applies only to  
8 a person who applies for reinstatement of a license on or after the  
9 effective date of this Act. A person who applies for renewal of a  
10 license under former Section 651.1655, Occupations Code, before the  
11 effective date of this Act is governed by the law in effect on the  
12 date the person applied for renewal, and the former law is continued  
13 in effect for that purpose.

14 SECTION 59. Section 651.267, Occupations Code, as amended  
15 by this Act, applies only to a person who applies for reissuance of  
16 a license on or after the effective date of this Act. A person who  
17 applies for reissuance of a license before the effective date of  
18 this Act is governed by the law in effect on the date the person  
19 applied for reissuance, and the former law is continued in effect  
20 for that purpose.

21 SECTION 60. Section 651.502, Occupations Code, as amended  
22 by this Act, applies only to a person who applies for the issuance  
23 or renewal of a license on or after the effective date of this Act. A  
24 person who applies for the issuance or renewal of a license before  
25 the effective date of this Act is governed by the law in effect on  
26 the date the person applied, and the former law is continued in  
27 effect for that purpose.

1           SECTION 61. Section 651.5029, Occupations Code, as added by  
2 this Act, applies only to a violation that occurs on or after the  
3 effective date of this Act. A violation that occurs before the  
4 effective date of this Act is governed by the law in effect on the  
5 date the violation occurred, and the former law is continued in  
6 effect for that purpose.

7           SECTION 62. Section 651.505, Occupations Code, as amended  
8 by this Act, applies only to a person placed on probation on or  
9 after the effective date of this Act. A person placed on probation  
10 before the effective date of this Act is governed by the law in  
11 effect on the date the person was placed on probation, and the  
12 former law is continued in effect for that purpose.

13           SECTION 63. Section 651.506, Occupations Code, as amended  
14 by this Act, and Section 651.50601, Occupations Code, as  
15 redesignated and amended by this Act, apply only to a proceeding  
16 initiated on or after the effective date of this Act. A proceeding  
17 initiated before the effective date of this Act is governed by the  
18 law in effect on the date the proceeding was initiated, and the  
19 former law is continued in effect for that purpose.

20           SECTION 64. This Act takes effect September 1, 2017.