

By: Harden (By Request)

To: Business and  
Financial  
Institutions

SENATE BILL NO. 2944

1 AN ACT TO AMEND SECTION 73-11-41, MISSISSIPPI CODE OF 1972,  
2 TO DEFINE THE TERMS, "FUNERAL GOODS" AND "FUNERAL PROVIDER" AS  
3 THEY RELATE TO THE LICENSING LAWS ADMINISTERED BY THE STATE BOARD  
4 OF FUNERAL SERVICE; TO AMEND SECTION 73-11-49, MISSISSIPPI CODE OF  
5 1972, TO PROVIDE THAT THE BOARD OF FUNERAL SERVICE SHALL NOT PASS  
6 ANY REGULATION RELATIVE TO THE SALE OF FUNERAL GOODS UNLESS THE  
7 GOODS ARE SOLD OR OFFERED FOR SALE BY A FUNERAL PROVIDER; AND FOR  
8 RELATED PURPOSES.

9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

10 SECTION 1. Section 73-11-41, Mississippi Code of 1972, is  
11 amended as follows:[JMR1]

12 73-11-41. The following terms shall have the meanings  
13 ascribed herein unless the context shall otherwise require:

14 (a) "Board" shall mean the State Board of Funeral  
15 Service of the State of Mississippi as created by Section  
16 73-11-43, or any successor thereof.

17 (b) "Embalming" shall mean the disinfection of the dead  
18 human body by replacing certain body fluids with preserving and  
19 disinfecting chemicals.

20 (c) "License for funeral establishment" shall mean a  
21 license issued to a place or premise devoted to or used in the  
22 immediate post-death activities of custody, shelter, care,  
23 preparation and/or embalming for final disposition of the body; or  
24 used for religious services or other rites or ceremonies  
25 associated with the final disposition of human dead; or maintained  
26 for the convenience and comfort of the bereaved and the community  
27 for viewing or other services in connection with the human dead,  
28 and as the office or place for carrying on the profession of  
29 funeral service and/or funeral directing.

30 (d) "License for the practice of funeral directing"  
31 shall mean the license given to a person engaging in the "practice  
32 of funeral service" who is not engaged in the practice of  
33 embalming.

34 (e) "License for the practice of funeral service" shall  
35 mean the license given to a person engaging in the "practice of  
36 funeral service," including the practice of embalming.

37 (f) "Practice of funeral service" shall mean (i)  
38 providing shelter, care and custody of the human dead; (ii)  
39 conducting immediate post-death activities; (iii) preparing of the  
40 human dead by embalming or other methods for burial or other  
41 disposition; (iv) being responsible for the transportation of the  
42 human dead, bereaved relatives and friends; (v) making  
43 arrangements, financial or otherwise, for the providing of such  
44 services; (vi) the sale of funeral merchandise; or (vii) the  
45 practice or performance of any function of funeral directing  
46 and/or embalming as presently known, including those stipulated  
47 herein. This definition shall not include persons or corporations  
48 engaging only in the pre-need sale of funeral merchandise or  
49 service, or persons or corporations engaging only in the sale of  
50 funeral goods.

51 (g) "Funeral goods" shall mean all products which are  
52 sold or offered for sale directly to the public for use in  
53 connection with funeral services.

54 (h) "Funeral provider" shall mean any person,  
55 partnership or corporation that sell or offers to sell both  
56 funeral goods and services to the public.

57 (i) "Resident trainee" shall mean a person who is  
58 preparing to become licensed for the practice of funeral service  
59 or funeral directing and who is serving under the supervision and  
60 instruction of a person duly licensed for the practice of funeral  
61 service or funeral directing in this state.

62 (j) "Solicitation" means the act or practice of

63 approaching someone with a request or plea, or urging someone  
64 toward a particular cause, as it may pertain to the care, custody  
65 or disposition of a dead human body.

66 SECTION 2. Section 73-11-49, Mississippi Code of 1972, is  
67 amended as follows:[JMR2]

68 73-11-49. (1) The board is authorized to select from its  
69 own membership a chairman, vice chairman and secretary-treasurer.  
70 Election of officers shall be held at the first regularly  
71 scheduled meeting of the fiscal year.

72 (2) All members of the board shall be reimbursed for their  
73 necessary traveling expenses and mileage incident to their  
74 attendance upon the business of the board, as provided in Section  
75 25-3-41, and shall receive a per diem as provided in Section  
76 25-3-69 for every day actually spent upon the business of the  
77 board, not to exceed twenty (20) days per year unless authorized  
78 by a majority vote of the board.

79 (3) All monies received by the board shall be paid into a  
80 special fund in the State Treasury to the credit of the board and  
81 shall be used by the board for paying the traveling and necessary  
82 expenses and per diem of the members of the board while on board  
83 business, and for paying other expenses necessary for the  
84 operation of the board in carrying out and involving the  
85 provisions of this chapter.

86 (4) The board shall employ an administrator of the board,  
87 who shall have complete supervision and be held responsible for  
88 the direction of the office of the board, shall have supervision  
89 over field inspections and enforcement of the provisions of this  
90 chapter, shall have such other duties as may be assigned by the  
91 board, shall be responsible and answerable to the board. The  
92 board may employ such other clerical assistants and employees as  
93 may be necessary to carry out the provisions of this chapter, and  
94 the terms and conditions of such employment shall be determined by  
95 the board in accordance with applicable state law and rules and

96 regulations of the State Personnel Board.

97 (5) The board, when it shall deem necessary, shall be  
98 represented by an assistant Attorney General duly appointed by the  
99 Attorney General of this state, and may also request and receive  
100 the assistance of other state agencies and county and district  
101 attorneys, all of whom are authorized to provide the assistance  
102 requested.

103 (6) The board shall have subpoena power in enforcing the  
104 provisions of this chapter.

105 (7) The board shall adopt and promulgate rules and  
106 regulations for the transaction of its business in accordance with  
107 the provisions of the Mississippi Administrative Procedures Law  
108 (Section 25-43-1 et seq.). No rule or regulation promulgated by  
109 the board affecting any person or agency outside the board shall  
110 be adopted, amended or repealed without a public hearing on the  
111 proposed action. The board shall give written notice at least  
112 thirty (30) days in advance of any meeting with respect to any  
113 proposed adoption, amendment or repeal of a rule or regulation of  
114 the board, in accordance with the Administrative Procedures Act,  
115 as well as notifying the duly elected presidents and secretaries  
116 of the Mississippi Funeral Directors Association and the  
117 Mississippi Funeral Directors and Morticians Association, or their  
118 successors.

119 (8) The board may designate the administrator to perform  
120 inspections under this chapter, may employ an individual to  
121 perform such inspections or may contract with any other individual  
122 or entity to perform such inspections. Any individual or entity  
123 that performs such inspections shall have the right of entry into  
124 any place in which the business or practice of funeral service  
125 and/or funeral directing is carried on or advertised as being  
126 carried on, for the purpose of inspection, for the investigation  
127 of complaints coming before the board and for such other matters  
128 as the board may direct.

129           (9) The board shall not pass any rule or regulation  
130 pertaining to the transportation of dead bodies in any manner or  
131 requiring them to be embalmed, nor shall the board pass any rule  
132 or regulation relative to the sale of funeral goods unless the  
133 funeral goods are sold or offered for sale by a funeral provider.

134           SECTION 3. This act shall take effect and be in force from  
135 and after July 1, 2000.