

FIRST REGULAR SESSION

SENATE BILL NO. 525

94TH GENERAL ASSEMBLY

INTRODUCED BY SENATOR SCOTT.

Read 1st time February 19, 2007, and ordered printed.

TERRY L. SPIELER, Secretary.

2130S.011

AN ACT

To repeal sections 333.011, 333.121, and 333.221, RSMo, and to enact in lieu thereof three new sections relating to embalmers and funeral directors.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 333.011, 333.121, and 333.221, RSMo, are repealed
2 and three new sections enacted in lieu thereof, to be known as sections 333.011,
3 333.121, and 333.221, to read as follows:

333.011. As used in this chapter, unless the context requires otherwise,
2 the following terms have the meanings indicated:

3 (1) "Board", the state board of embalmers and funeral directors created
4 by this chapter;

5 (2) "Embalmer", any individual licensed to engage in the practice of
6 embalming;

7 (3) "Funeral director", any individual licensed to engage in the practice
8 of funeral directing;

9 (4) "Funeral establishment", a building, place, **crematory**, or premises
10 devoted to or used in the care and preparation for burial or transportation of the
11 human dead and includes every building, place or premises maintained for that
12 purpose or held out to the public by advertising or otherwise to be used for that
13 purpose;

14 (5) "Person" includes a corporation, partnership or other type of business
15 organization;

16 (6) "Practice of embalming", the work of preserving, disinfecting and
17 preparing by arterial embalming, or otherwise, of dead human bodies for funeral
18 services, transportation, burial or cremation, or the holding of oneself out as

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

19 being engaged in such work;

20 (7) "Practice of funeral directing", engaging by an individual in the
21 business of preparing, otherwise than by embalming, for the burial, disposal or
22 transportation out of this state of, and the directing and supervising of the burial
23 or disposal of, dead human bodies or engaging in the general control, supervision
24 or management of the operations of a funeral establishment.

333.121. 1. The board may refuse to issue any certificate of registration
2 or authority, permit or license required pursuant to this chapter for one or any
3 combination of causes stated in subsection 2 of this section. The board shall
4 notify the applicant in writing of the reasons for the refusal and shall advise the
5 applicant of his right to file a complaint with the administrative hearing
6 commission as provided by chapter 621, RSMo.

7 2. The board may cause a complaint to be filed with the administrative
8 hearing commission as provided by chapter 621, RSMo, against any holder of any
9 certificate of registration or authority, permit or license required by this chapter
10 or any person who has failed to renew or has surrendered his certificate of
11 registration or authority, permit or license for any one or any combination of the
12 following causes:

13 (1) Use of any controlled substance, as defined in chapter 195, RSMo, or
14 alcoholic beverage to an extent that such use impairs a person's ability to perform
15 the work of any profession licensed or regulated by this chapter;

16 (2) The person has been finally adjudicated and found guilty, or entered
17 a plea of guilty or nolo contendere, in a criminal prosecution under the laws of
18 any state or of the United States, for any offense reasonably related to the
19 qualifications, functions or duties of any profession licensed or regulated under
20 this chapter, for any offense an essential element of which is fraud, dishonesty
21 or an act of violence, or for any offense involving moral turpitude, whether or not
22 sentence is imposed;

23 (3) Use of fraud, deception, misrepresentation or bribery in securing any
24 certificate of registration or authority, permit or license issued pursuant to this
25 chapter or in obtaining permission to take any examination given or required
26 pursuant to this chapter;

27 (4) Obtaining or attempting to obtain any fee, charge, tuition or other
28 compensation by fraud, deception or misrepresentation;

29 (5) Incompetency, misconduct, gross negligence, fraud, misrepresentation
30 or dishonesty in the performance of the functions or duties of any profession

31 licensed or regulated by this chapter;

32 (6) Violation of, or assisting or enabling any person to violate, any
33 provision of this chapter, or of any lawful rule or regulation adopted pursuant to
34 this chapter;

35 (7) Impersonation of any person holding a certificate of registration or
36 authority, permit or license or allowing any person to use his or her certificate of
37 registration or authority, permit, license or diploma from any school;

38 (8) Disciplinary action against the holder of a license or other right to
39 practice any profession regulated by this chapter granted by another state,
40 territory, federal agency or country upon grounds for which revocation or
41 suspension is authorized in this state;

42 (9) A person is finally adjudged insane or incompetent by a court of
43 competent jurisdiction;

44 (10) Assisting or enabling any person to practice or offer to practice any
45 profession licensed or regulated by this chapter who is not registered and
46 currently eligible to practice under this chapter;

47 (11) Issuance of a certificate of registration or authority, permit or license
48 based upon a material mistake of fact;

49 (12) Failure to display a valid certificate or license if so required by this
50 chapter or any rule promulgated hereunder;

51 (13) Violation of any professional trust or confidence;

52 (14) Use of any advertisement or solicitation which is false, misleading or
53 deceptive to the general public or persons to whom the advertisement or
54 solicitation is primarily directed;

55 (15) Violation of any of the provisions of chapter 193, RSMo, chapter 194,
56 RSMo, or chapter 436, RSMo;

57 (16) Presigning a death certificate or signing a death certificate on a body
58 not embalmed by, or under the personal supervision of, the licensee;

59 (17) Obtaining possession of or embalming a dead human body without
60 express authority to do so from the person entitled to the custody or control of the
61 body;

62 (18) Failure to execute and sign the [reverse side of a] death certificate
63 on a body embalmed by, or under the personal supervision of, a licensee;

64 (19) Failure or refusal to properly guard against contagious, infectious or
65 communicable diseases or the spread thereof;

66 (20) Willfully and through undue influence selling a funeral;

67 (21) Refusing to surrender a dead human body upon request by the next
68 of kin, legal representative or other person entitled to the custody and control of
69 the body.

70 3. After the filing of such complaint, the proceedings shall be conducted
71 in accordance with the provisions of chapter 621, RSMo. Upon a finding by the
72 administrative hearing commission that the grounds, provided in subsection 2,
73 for disciplinary action are met, the board may, singly or in combination, censure
74 or place the person named in the complaint on probation on such terms and
75 conditions as the board deems appropriate for a period not to exceed five years,
76 or may suspend, for a period not to exceed three years, or revoke the license,
77 certificate, or permit.

333.221. 1. Each member of the board shall receive as compensation an
2 amount set by the board not to exceed [fifty] **seventy** dollars for each day
3 devoted to the affairs of the board, and shall be entitled to reimbursement of his
4 expenses necessarily incurred in the discharge of his official duties.

5 2. The board may employ such board personnel[, as defined in subdivision
6 (4) of subsection 16 of section 620.010, RSMo, as is necessary for the
7 administration of this chapter] **as may be necessary to carry out the**
8 **provisions of this chapter. Board personnel shall include an executive**
9 **secretary or comparable position, inspectors, investigators, attorneys,**
10 **and secretarial support staff for these positions. The board may retain**
11 **legal services by agreement with other agencies, including the attorney**
12 **general, by employment of such personnel, or by agreement with**
13 **private parties.**

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