

TRANSMITTAL SHEET FOR  
NOTICE OF INTENDED ACTION

Control No. \_\_\_\_\_ Department or Agency Alabama Board of Funeral Service  
Rule No. 395-X-6-.09  
Rule Title: Inspection Penalties  
X New \_\_\_\_\_ Amend \_\_\_\_\_ Repeal \_\_\_\_\_ Adopt by Reference

Would the absence of the proposed rule significantly harm or endanger the public health, welfare, or safety? YES

Is there a reasonable relationship between the state's police power and the protection of the public health, safety, or welfare? NO

Is there another, less restrictive method of regulation available that could adequately protect the public? NO

Does the proposed rule have the effect of directly or indirectly increasing the costs of any goods or services involved and, if so, to what degree? NO

Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

Are all facets of the rulemaking process designed solely for the purpose of, and so they have, as their primary effect, the protection of the public? YES

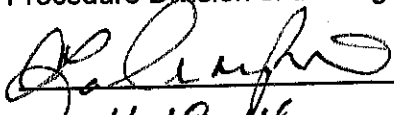
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Does the proposed rule have an economic impact? NO

If the proposed rule has an economic impact, the proposed rule is required to be accompanied by a fiscal note prepared in accordance with subsection (f) of Section 412223, Code of Alabama 1975.

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Certification of Authorized Official

I certify that the attached proposed rule has been proposed in full compliance with the requirements of Chapter 22, Title 41, Code of Alabama 1975, and that it conforms to all applicable filing requirements of the Administrative Procedure Division of the Legislative Reference Service.

Signature of certifying officer   
Date 4-18-14

(DATE FILED)  
(STAMP)

**Alabama Board of Funeral Service**  
**NOTICE OF INTENDED ACTION**

**AGENCY NAME:** Alabama Board of Funeral Service

**RULE NO. & TITLE:** 395-X-6-.01 Preparation Room  
395-X-6-.02 Display or Selection Room  
395-X-6-.09 Inspection Penalties (New Rule)

**INTENDED ACTION:** The Alabama Board of Funeral Service proposes to amend Rule No. 395-X-6-.01 and Rule No. 395-X-6-.02. The Alabama Board of Funeral Service also proposes to add a new rule as Rule No. 395-X-6-.09 titled “ Inspection Penalties” .

**SUBSTANCE OF PROPOSED ACTION:** The Board proposes to add language to Rule No. 395-X-6-.01 establishing the requirements for a funeral establishment where there will be no embalming of human remains because embalming will be taken place at a centralized embalming facility in accordance with new statutory requirements. The Board proposes to add language in Rule No. 395-X-6-.02 requiring caskets in the selection or display room to be priced in accordance with new statutory requirements. The Board proposes to add a new rule as Rule No. 395-X-6-.09 titled “ Inspection Penalties” listing the penalties and procedure for handling minor inspection violations for an establishment.

**TIME, PLACE, MANNER OF PRESENTING VIEWS:** Written, verbal or electronic mail comments will be accepted by the Board until:

Time: 4:30 p.m., Wednesday, June 4, 2014

Place: 11 South Union Street Suite 106, Montgomery, AL 36104

Email: [Charles.perine@fsb.alabama.gov](mailto:Charles.perine@fsb.alabama.gov)

Phone: 334-242-4049

**FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE:** Wednesday, June 4, 2014

**CONTACT PERSON AT AGENCY:**

Charles M. Perine  
Executive Secretary  
11 South Union Street  
Suite 106  
Montgomery, AL 36104

  
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Charles M. Perine  
Executive Secretary  
Alabama Board of Funeral Service

**395-X-6-.09 Inspection Penalties "NEW RULE"**

(a). Any violation under this section is a violation of minimum standards and a threat to the health, safety, and welfare of the public. A funeral establishment or mortuary service licensed by the board shall pay a fine to the board for each violation of this section. If the inspector or a representative of the board finds a violation during an inspection, he or she may immediately issue a citation listing each violation. After a citation has been issued, the licensee shall either remit the amount of the fine to the board or submit a written request for an administrative hearing before the board. A request for an administrative hearing before the board shall be received by the board not later than 30 calendar days after the day the citation is issued. Failure to either pay the fine or timely request an administrative hearing before the board shall cause additional disciplinary action to be taken against the licensee. The requirements for inspections and the fines for violations under this section are as follows:

Minimum Standards	Fine for Violating
<b>1. Licenses</b>	
a. A license issued under this chapter shall be current and on public display in an area not restricted from the public travel.	\$200.00
b. Each license issued under this chapter shall be displayed in the place of business or employment of the licensee.	\$100.00
<b>2. Selection Room</b>	
a. Each funeral establishment shall have a clean and neatly arranged selection or display room containing a stock of adult caskets and funeral supplies displayed in full size, cuts, photographs, or electronic images of caskets for persons to view available funeral merchandise or supplies.	\$200.00
b. At no time shall less than eight different adult full-size caskets be on the premises of the funeral establishment.	\$300.00 per casket below the minimum
c. Each funeral establishment shall have a card or brochure in each full-size and cut casket and on each photograph and electronic image of a casket stating the unit price of that casket.	\$100.00 per casket without a card or brochure
<b>3. Rest Room</b>	
a. Each funeral establishment shall have at least one public rest room. Each rest room shall have a nonporous floor, clean walls, and shall be equipped with hot and cold running water, roll or disposable towels or an electronic hand dryer, and necessary lighting for adequate visibility.	\$100.00
b. No public rest room shall be used as a storage area for mops, brooms, or any other such items.	\$100.00
<b>4. Preparation Room / Branch Location</b>	
i. One approved embalming table	\$200.00
ii. Correctly operating embalming equipment	\$200.00
iii. A selection of all professional equipment necessary for embalming.	\$200.00
iv. Nonporous floors and walls.	\$200.00
v. Hot and cold running water.	\$100.00

vi.	A working ventilation fan.	\$200.00
vii.	A suitable container for waste disposal.	\$100.00
viii.	A suitable container for soiled linen or clothing	\$100.00
ix.	Proper drainage.	\$200.00
x.	Embalming room and its contents are kept clean of blood when not in use.	\$200.00
xi.	At no time shall the preparation room be used as a storage area.	\$100.00
xii.	Aspirator, trocar, nasal tube aspirator, aspirating hoses.	\$200.00
5. Embalming Record		
a.	Each funeral establishment in the state shall keep a current record of each human dead body embalmed at the establishment and shall retain such record for a period of not less than four years. The record may be in simple log form and shall contain the name of the deceased, the date of embalming, the time the embalming procedure began and ended, and the signature of the embalmer.	\$200.00
6. Identification of Dead Human Bodies		
a.	Each funeral establishment shall comply with Section 22-19-5 by affixing a permanent ankle bracelet to each dead human body in the possession or custody of the funeral establishment.	\$100.00 per body not identified
7. General Interior		
a.	There are no rotten or deteriorated floor boards or flooring which is subject to public travel.	\$100.00
b.	All outside openings are screened, covered, or otherwise sealed to prevent the entrance of insects or rodents.	\$100.00
c.	Any openings between the preparation room and public areas are sealed to prevent fumes from escaping into those public areas.	\$100.00
d.	All public areas are well maintained with a clean and attractive appearance including the repair and proper maintenance of all walls, ceilings, and floors and the absence of holes, scaling paint, or any other deterioration.	\$200.00
8. General Exterior		
a.	The premises are free of litter and debris.	\$200.00
b.	All areas subject to public travel are free of objects or other matter which could cause possible injury.	\$200.00
c.	All roofing or overhead coverings are well maintained to prevent any leaks to the interior of the funeral establishment.	\$200.00
9. Hearse or Funeral Coach		
a.	One operating and properly licensed funeral coach or hearse, equipped for transporting human remains in a casket or urn, on the premises.	\$300.00
b.	Mortuary Service must have at least one operating and properly licensed motor vehicle, equipped for transporting human remains in a casket or urn.	\$300.00
10. Access		
a.	Each funeral establishment shall allow reasonable access to the board, or an authorized agent or representative of the board, for	\$400.00

inspecting the facilities of the funeral establishment.	
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(b). In addition to the disciplinary actions authorized in the statute and subsection (a), the board may refuse to grant, refuse to renew, or suspend or revoke a license, after proper hearing and notice to the licensee, upon the licensee being found guilty of any violation of this chapter. The board may levy and collect administrative fines for any violation of this chapter, or the rules or regulations of the board, in an amount not less than five hundred dollars (\$500) nor more than two thousand five hundred dollars (\$2,500) for each violation of this chapter for which the licensee has been found guilty. Repeat violators will be subject to further disciplinary action by the Board in accordance with the Code of Alabama, 1975, Title 34 Chapter 13.

**Author:** Charles M. Perine

**Statutory Authority:** Code of Ala. 1975, §§34-13-26, 34-13-56, 34-13-111, 34-13-113.

**History: New Rule:** Filed April 18, 2014