

## CHAPTER 498

## S.B. No. 651

An Act relating to the fees and penalties charged for the regulation and licensing of funeral directing, embalming, and funeral establishments by the State Board of Morticians; amending Subsections D and E and Subdivision (1), Subsection F, of Section 3 and Subsection A of Section 4, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4582b, Vernon's Texas Civil Statutes).

*Be it enacted by the Legislature of the State of Texas:*

**SECTION 1.** Subsections D and E, Section 3, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4582b, Vernon's Texas Civil Statutes), are amended to read as follows:

"D. It shall be the duty of the Board to prescribe and supervise the course of instruction received by an apprentice while serving his or her apprenticeship, consistent with the following requirements to establish such an apprenticeship registration procedure:

"1. Apprenticeship for embalmer: A license to practice the science of embalming shall not be issued unless and until the applicant therefor has served an apprenticeship period of not less than twelve (12) consecutive months under the personal supervision and instruction of a licensed embalmer and has successfully completed all requirements of apprenticeship. The only exception to this requirement shall be in the case of an applicant under reciprocity.

"(a) Any person, eighteen (18) years of age or more, who desires to practice the science of embalming in this state, files application therefor, meets the requirements of the law and this Board, and possesses such qualification to enter into apprenticeship training, may be registered as an apprentice. Apprenticeship for a license to practice the science of embalming must be served by the person after graduation from a school or college of mortuary science. An applicant shall pay a registration fee [~~not to exceed Fifteen Dollars (\$15)~~] at the time he requests such apprenticeship registration.

"(1) An applicant for a license to practice the science of embalming who attains a grade of 70% or higher on the written examination given by the Board upon payment of a registration fee [~~not to exceed Fifteen Dollars (\$15)~~] shall be registered as an apprentice within six (6) months of such examination.

"(b) Each registered apprentice embalmer shall be issued a certificate of apprenticeship or other means of apprenticeship identification by the Board to be served in the State of Texas. During the period of apprenticeship he shall assist in embalming a minimum of sixty (60) dead human bodies, six (6) of which bodies the apprentice shall embalm after the first six months of the apprenticeship without aid but in the immediate presence and under the personal supervision of an embalmer duly and currently licensed in the State of Texas. No more than two (2) apprentices may receive credit due for work on any one body.

"(c) An apprentice embalmer must report within ten (10) days after the end of each month each separate case handled by him or with which he has assisted in handling. Each such report shall be certified by the licensee under whom the apprentice performed his work. Throughout the period of apprenticeship, the apprentice shall report on at least one (1) such case of embalming each calendar month, within the month. In any month in which he did not embalm at least one (1) case under the direction of a licensed embalmer, a report shall be made to the Board notwithstanding.

"(d) *The Board shall set the registration and examination fees in an amount that is reasonable and necessary for the administration of the registration and examination.*

"2. Apprentice for Funeral Director: The term of apprenticeship for a funeral director's license shall be a period of not less than twelve (12) months, and may be served concurrently with apprenticeship for an embalmer's license; however, apprenticeship must be served in twelve (12) consecutive months. A person desiring to become an apprentice funeral director shall make application to the Board on a form provided by the Board, and if the Board desires, he shall appear before at least one (1) member of the Board, or a designated representative thereof, for approval of his application, subject to review of it by the entire Board. An applicant must be not less than eighteen (18) years of age and have completed the educational requirements prescribed for a funeral director, except an applicant for a funeral director's license may elect to serve a one-year apprenticeship prior to enrolling in a course of study in funeral directing prescribed by the Board and graduating from a school of embalming or college of mortuary science. Time spent as an apprentice while engaged in a prescribed course of study in funeral directing or as a student in a school of embalming or college of mortuary science may not be counted toward the required

period of apprenticeship. The application for registration shall be sworn to and accompanied by a registration fee [not to exceed Fifteen Dollars (\$15)]. If the application is accepted, an applicant will be issued a certificate of apprenticeship registration upon determination by the Board that his qualifications are satisfactory.

“(a) An applicant for a funeral director’s license and the examination therefor who has not completed one (1) year of apprenticeship prior to enrolling in a school of embalming or college of mortuary science shall be admitted to apprenticeship only in the event he shall have attained a grade of 70% or higher on the written examination given by the Board, and the payment of a registration fee [not to exceed Fifteen Dollars (\$15)], whereupon he shall be registered as an apprentice. Provided, however, an applicant must register as an apprentice within six (6) months of such examination.

“(b) An apprentice funeral director must report within ten (10) days after the end of each month each separate case with which he has assisted in handling. Each such report shall be certified to by the licensee under whom the apprentice performed the work. Throughout the period of apprenticeship the apprentice shall report on at least one (1) such case each calendar month, within the month. In any month within which he did not assist a funeral director in handling a funeral, a report shall be made to the Board notwithstanding.

“(c) During the course of apprenticeship each apprentice shall assist a licensed funeral director in this state to prepare, other than by embalming, and to make final disposition of not less than sixty (60) dead human bodies, six (6) of which bodies the apprentice shall handle after the first six months of the apprenticeship. No more than two (2) apprentices may receive credit for work done on any one body.

“(d) *The Board shall set the registration and examination fees in an amount that is reasonable and necessary for the administration of the registration and examination.*

“3. Annual renewal apprenticeship certificate: Each certificate of apprenticeship issued by the Board to an apprentice embalmer or apprentice funeral director must be renewed on the first day of January of each year and will be renewed upon payment by the apprentice of a renewal fee [not to exceed Fifteen Dollars (\$15)], provided the apprentice has observed the rules and regulations of the Board with respect to his apprenticeship. Notice shall be mailed, during the month of December each year, to each registered apprentice at his last known address, notifying him that the renewal fee is due. If a registered apprentice fails to pay the annual renewal fee by the due date, the Board shall impose a late payment penalty equal in amount to the license renewal fee. If the apprentice is delinquent in payment of the renewal fee and penalty for more than thirty (30) days, the Board shall suspend his certificate for nonpayment and shall notify such apprentice of such suspension by registered mail, addressed to his last known address. If the said renewal fee and penalty are not then paid within ninety (90) days from the date of such notice of suspension, the Board shall then cancel such certificate. Provided, however, after an apprentice certificate has been cancelled, the apprentice may apply for reinstatement within eighteen (18) months from the date such apprentice certificate was cancelled and the Board may reinstate said apprentice provided he meets all other requirements of the Board and pays the license fee and a late payment penalty equal in amount to the license fee for the period of the cancellation. A certificate of apprenticeship may not be renewed for more than a total period of five (5) years from the date of its issuance. It is provided that the registration fee of any apprentice who is actively engaged in the military service of the United States may be remitted for the duration of such service or for such fees and such time as the Board may deem advisable upon presentation of proper evidence required by the Board. *The Board shall set the renewal fee and the penalty in an amount that is reasonable and necessary for the administration of this Act.*

“3a. The board by rule shall adopt a system under which certificates expire on various dates during the year. The date for sending notice that payment is due and the date for suspension due to nonpayment shall be adjusted accordingly. For the year in which the certificate expiration date is changed, certification fees payable on January 1 shall be prorated on a monthly basis so that each certificate holder shall pay only that portion of the certification fee which is allocable to the number of months during which the certificate is valid. On renewal of the certificate on the new expiration date the total renewal fee is payable.

“4. Notification of the Board upon entry into apprenticeship: When an apprentice enters the employ of a licensed embalmer or funeral director, he shall immediately notify the Board of the name and place of business of the licensed embalmer or funeral director whose service he has entered and the name of the funeral director or embalmer under whom he will train, and such notification shall be signed by the embalmer or funeral director in each case. If at any time thereafter such apprentice leaves the employ of the licensed embalmer or funeral director whose services he has entered, the said licensed embalmer or funeral director shall give to such apprentice an affidavit showing the length of time he has served as an apprentice with him and the number of cases handled while so employed; the original of said affidavit shall be filed with the Board and made a matter of record, and a copy shall be furnished to the apprentice. The Board shall furnish report forms to be used by each apprentice.

“(a) Any apprentice registration shall be cancelled, and the applicant required to re-register, including paying the required fees, for failure to pass the Board’s examination of such apprentice after only part of the apprenticeship has been completed. Provided, however, such applicant shall be given credit for apprenticeship time served under the cancelled license in any new registration.

“5. A certificate of apprenticeship may be suspended or revoked as provided and set forth in Section 3, subsection H.

“E. Any person engaged or desiring to engage in the practice of embalming or funeral directing in this state, in connection with the care and disposition of dead human bodies, shall make written application to the Board for a license accompanying same with *an application [a license] fee [not to exceed Fifty Dollars (\$50)]*. The license or licenses when issued shall be signed by a majority of the Board and shall authorize the licensee to practice the science of embalming and/or funeral directing. All licenses shall be registered in the office of the County Clerk in any county in which the holder thereof resides and practices embalming and/or funeral directing and shall be displayed conspicuously in the place of business. Every licensed embalmer and/or funeral director who desires to continue his practice shall biennially pay to the Secretary of the said Board a registration fee *[not to exceed Fifty Dollars (\$50)]* for the renewal of each funeral director’s license and each embalmer’s license. Said license shall become due and payable biennially on the 31st day of May, and the Board will give written notice on or before April 1st, of each year that the license fees are due and payable. If a licensee fails to pay the biennial registration fee by the due date, the Board shall charge the delinquent licensee a late payment penalty equal in amount to the registration fee, and shall suspend the license and notify the licensee by certified mail, return receipt requested, of such suspension. If the licensee does not pay the registration fee and penalty before the ninetieth (90th) day after the date on which the Board declared the license suspended, as provided herein, the license shall be automatically cancelled and the Board may thereafter refuse to reinstate the licensee until the applicant has passed a regular examination for license as provided in this Act and has paid the license fee and a late payment penalty equal in amount to the license fee for the period of the cancellation. If any license issued under this Act shall be lost or destroyed, the holder of any such license may present his application for duplicate license to the State Board of Morticians, on a form to be prescribed by the Board, together with his affidavit of such loss or destruction, and that he is the same person to whom such license was issued, and such other information concerning its loss or destruction as the State Board of Morticians shall require, and shall, upon payment of a duplicate license fee *[not to exceed Ten Dollars (\$10)]*, as determined by the Board, be granted a duplicate license. The Board shall adopt rules to carry out the biennial licensing system.

“1. Any license that has been cancelled, suspended or lapsed for a period of five (5) years or more may be reinstated only after the applicant shall have passed a written and practical examination by the Board on embalming and/or a written examination on funeral directing.

“2. The board by rule shall adopt a system under which licenses expire on various dates during the year. All dates for sending notice regarding payment of fees and dates for license suspension for nonpayment shall be adjusted accordingly. For the year in which the license expiration date is changed, license fees payable on May 31 shall be prorated on a monthly basis so that each licensee shall pay only that portion of the license fee which 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.

“3. *The Board shall set the application fee, license fee, registration fee, and duplicate license fee in an amount that is reasonable and necessary for the administration of this Act.*”

**SECTION 2.** Subdivision (1), Subsection F, Section 3, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4582b, Vernon’s Texas Civil Statutes), is amended to read as follows:

“(1) On a reciprocal basis with other states, countries, or territories the Board may issue, without examination, a license to an applicant who has a corresponding certificate or license issued by another state, country, or territory having standards for the license that are at least substantially equivalent to those of this state and who pays a reciprocal license fee *[of Sixty-two Dollars and Fifty Cents (\$62.50)]*. The person’s application shall be accompanied by an affidavit made by the President or Secretary of the Board of Mortician Examiners which issued the license, or by a duly constituted registration officer of the state, country, or territory by which the certificate or license was granted, and on which the application for registration in Texas is based, reciting that the accompanying certificate or license has not been cancelled, suspended or revoked, and that the statement of the qualifications made in the application for a license in Texas is true and correct. Applicants for a license under the provisions of this Act shall subscribe to an oath in writing before an officer authorized by law to administer oaths, which shall be a part of such application, stating that the license, certificate, or authority under

which the applicant practiced as a funeral director or embalmer in the state, country, or territory from which the applicant removed, was at the time of such removal in full force and effect and not cancelled or suspended or revoked. Said application shall also state that the applicant is the identical person to whom the said certificate, license, or commission was issued, and that no proceeding has been instituted against the applicant for the cancellation, suspension or revocation of such certificate or license in the state, country, or territory in which the same was issued; and that no prosecution is pending against the applicant in any state or federal court for any offense which, under the laws of the State of Texas, is a felony, or is a misdemeanor related to the practice of embalming or funeral directing. *The Board shall set the reciprocal license fee in an amount that is reasonable and necessary for the administration of this Act.*"

**SECTION 3.** Subsection A, Section 4, Chapter 251, Acts of the 53rd Legislature, Regular Session, 1953, as amended (Article 4582b, Vernon's Texas Civil Statutes), is amended to read as follows:

"A. All funeral establishments shall be licensed by the Board. All licenses shall expire at midnight on September 30th of each year. [~~The license fee shall not exceed Sixty-two Dollars and Fifty Cents (\$62.50) for issuance of licenses to existing establishments and for renewal licenses.~~] Funeral establishments created after the effective date of this Act shall apply for a license, and upon satisfaction to the Board that this Section has been complied with and upon receipt of the licensing fee, [~~which shall not exceed Two Hundred Fifty Dollars (\$250);~~] an initial license shall be duly issued to such new establishments. Not later than thirty (30) days prior to the expiration date of licenses, the Board shall cause to be issued notification in writing by mail to each licensed funeral establishment that a renewal fee [~~not to exceed Sixty-two Dollars and Fifty Cents (\$62.50)~~] must be paid not later than September 30th before such license shall be renewed, and upon due receipt of such fees all existing licenses shall be considered automatically renewed. Any establishment which fails to pay its license renewal fee by the due date is subject to a late payment penalty equal in amount to the license renewal fee, and if the delinquency is more than thirty (30) days, the establishment shall not be permitted to operate as a funeral home until it has applied for and has been granted a new license as in the case of original applications and licenses for new funeral establishments. *The Board shall set the funeral establishment license fee, the renewal fee, and the penalty in an amount that is reasonable and necessary for the administration of this Act.*"

**SECTION 4.** This Act applies only to fees and penalties that become due on or after September 1, 1985. Fees that became due before that date are governed by the law in effect on the due date, and the former law is continued in effect for this purpose.

**SECTION 5.** This Act takes effect September 1, 1985.

**SECTION 6.** The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on April 18, 1985, by the following vote: Yeas 31, Nays 0; passed the House on May 24, 1985, by the following vote: Yeas 146, Nays 2, one present not voting.

Approved: June 12, 1985

Effective: September 1, 1985