**South Carolina General Assembly**

122nd Session, 2017-2018

**A135, R139, S185**

**STATUS INFORMATION**

General Bill

Sponsors: Senator Shealy

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Introduced in the Senate on January 10, 2017

Introduced in the House on March 21, 2017

Last Amended on February 6, 2018

Passed by the General Assembly on February 13, 2018

Governor's Action: March 12, 2018, Signed

Summary: Funeral service providers

**HISTORY OF LEGISLATIVE ACTIONS**

 Date Body Action Description with journal page number

 12/13/2016 Senate Prefiled

 12/13/2016 Senate Referred to Committee on **Labor, Commerce and Industry**

 1/10/2017 Senate Introduced and read first time ([Senate Journal‑page 98](file:///h%3A%5Csj%5C20170110.docx))

 1/10/2017 Senate Referred to Committee on **Labor, Commerce and Industry** ([Senate Journal‑page 98](file:///h%3A%5Csj%5C20170110.docx))

 3/9/2017 Senate Committee report: Favorable with amendment **Labor, Commerce and Industry** ([Senate Journal‑page 15](file:///h%3A%5Csj%5C20170309.docx))

 3/10/2017 Scrivener's error corrected

 3/15/2017 Senate Committee Amendment Adopted ([Senate Journal‑page 13](file:///h%3A%5Csj%5C20170315.docx))

 3/15/2017 Senate Read second time ([Senate Journal‑page 13](file:///h%3A%5Csj%5C20170315.docx))

 3/15/2017 Senate Roll call Ayes‑41 Nays‑0 ([Senate Journal‑page 13](file:///h%3A%5Csj%5C20170315.docx))

 3/16/2017 Senate Read third time and sent to House ([Senate Journal‑page 14](file:///h%3A%5Csj%5C20170316.docx))

 3/21/2017 House Introduced and read first time ([House Journal‑page 122](file:///h%3A%5Chj%5C20170321.docx))

 3/21/2017 House Referred to Committee on **Labor, Commerce and Industry** ([House Journal‑page 122](file:///h%3A%5Chj%5C20170321.docx))

 2/1/2018 House Committee report: Favorable with amendment **Labor, Commerce and Industry** ([House Journal‑page 15](file:///h%3A%5Chj%5C20180201.docx))

 2/6/2018 House Amended ([House Journal‑page 22](file:///h%3A%5Chj%5C20180206.docx))

 2/6/2018 House Read second time ([House Journal‑page 22](file:///h%3A%5Chj%5C20180206.docx))

 2/6/2018 House Roll call Yeas‑104 Nays‑0 ([House Journal‑page 23](file:///h%3A%5Chj%5C20180206.docx))

 2/7/2018 House Read third time and returned to Senate with amendments ([House Journal‑page 14](file:///h%3A%5Chj%5C20180207.docx))

 2/13/2018 Senate Concurred in House amendment and enrolled ([Senate Journal‑page 19](file:///h%3A%5Csj%5C20180213.docx))

 2/13/2018 Senate Roll call Ayes‑39 Nays‑0 ([Senate Journal‑page 19](file:///h%3A%5Csj%5C20180213.docx))

 3/7/2018 Ratified R 139

 3/12/2018 Signed By Governor

 3/14/2018 Effective date 03/12/18

 3/20/2018 Act No. 135

View the latest [legislative information](http://www.scstatehouse.gov/billsearch.php?billnumbers=185&session=122&summary=B) at the website

**VERSIONS OF THIS BILL**

[12/13/2016](file:///p%3A%5Cpprever%5C2017-18%5C185_20161213.docx)

[3/9/2017](file:///p%3A%5Cpprever%5C2017-18%5C185_20170309.docx)

[3/10/2017](file:///p%3A%5Cpprever%5C2017-18%5C185_20170310.docx)

[3/15/2017](file:///p%3A%5Cpprever%5C2017-18%5C185_20170315.docx)

[2/1/2018](file:///p%3A%5Cpprever%5C2017-18%5C185_20180201.docx)

[2/6/2018](file:///p%3A%5Cpprever%5C2017-18%5C185_20180206.docx)

(A135, R139, S185)

**AN ACT TO AMEND SECTION 40‑19‑20, CODE OF LAWS OF SOUTH CAROLINA, 1976, RELATING TO THE DEFINITIONS CONCERNING THE REGULATION OF FUNERAL SERVICE PROVIDERS, SO AS TO DEFINE NECESSARY TERMS; AND TO AMEND SECTION 40-19-110, RELATING TO THE PROHIBITED USE OF FALSE OR MISLEADING ADVERTISING BY FUNERAL SERVICE PROVIDERS, SO AS TO PROVIDE REQUIREMENTS FOR FUNERAL SERVICE ADVERTISEMENTS.**

Be it enacted by the General Assembly of the State of South Carolina:

**Definitions**

SECTION 1. Section 40‑19‑20 of the 1976 Code is amended to read:

 “Section 40‑19‑20. As used in this chapter:

 (1) ‘Advertisement’ means the publication, dissemination, circulation, or placing before the public an announcement or statement in a newspaper, magazine, or other publication in the form of a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard, card, label, or tag, or over radio, television, or Internet. The term does not include funeral or death notices and obituaries.

 (2) ‘Aiding and abetting’ means allowing or permitting an Internet service provider, unlicensed person, establishment, or entity to engage in the practice of funeral service, embalming, cremating, or conducting business as a funeral home, funeral establishment, crematory, or mortuary; provided, however, that ‘aiding and abetting’ does not include the publication, dissemination, circulation, or placing before the public by an Internet service provider of an advertisement prepared by an unaffiliated or unlicensed person or entity.

 (3) ‘Apprentice’ means a person who is preparing to become licensed for the practice of embalming and funeral directing under the supervision and instruction of a person licensed for the practice in this State and who is registered with the board pursuant to Section 40‑19‑120.

 (4) ‘Board’ means the South Carolina State Board of Funeral Service.

 (5) ‘Branch funeral home’ means an establishment separate and apart from the licensed parent funeral home that has embalming facilities, a chapel, a lay‑out room, or a sales room, or any combination of these.

 (6) ‘Cremation’ means the reduction of the dead body by intense heat to residue.

 (7) ‘Crematory’ means an establishment in which the dead body is reduced to residue by intense heat.

 (8) ‘Disposition’ means the final disposal of the body whether by earth interment, aboveground burial, cremation, burial at sea, or delivery to a medical institution for lawful dissection and experimentation or removal from the State pursuant to obtaining a burial transit permit.

 (9) ‘Embalmer’ means a person licensed by the board to disinfect and preserve or attempt to disinfect and preserve the dead human body, entirely or in part, by the use of application of chemicals, fluids, or gases, externally or internally, or both, by their introduction into the body by vascular or hypodermic injections, by direct application into the organs or cavities, or by other method and includes the restoration or attempted restoration of the appearance of the dead human body.

 (10) ‘Embalming’ means the disinfection of the dead human body by replacing certain body fluids with preserving and disinfecting chemicals.

 (11) ‘Funeral director’ means a person licensed by the board to engage for hire or profit in the profession of arranging, directing, or supervising funerals.

 (12) ‘Funeral home’, ‘funeral establishment’, or ‘mortuary’ means an establishment where the practice of funeral service and embalming is practiced. All of these establishments must include the following facilities:

 (a) a chapel or parlor in which funeral services may be conducted;

 (b) a preparation room equipped with a sanitary floor and necessary drainage, ventilation, necessary approved tables, hot and cold running water, and a sink separate from table drainage, instruments, and supplies for the preparation and embalming of dead human bodies;

 (c) a room containing a displayed stock of at least six adult caskets and other necessary funeral supplies;

 (d) at least one motor hearse for transporting casketed human remains.

 (13) ‘Funeral merchandise’ means that personal property used in connection with the conduct of funerals or with the transportation and final disposition of a dead human body including, but not limited to, caskets, cremation caskets, urns, and burial clothing. The term does not mean mausoleum crypts, interment receptacles preset in a cemetery, and columbarium niches.

 (14) ‘Funeral service’ or ‘funeral’ means a period following death in which there are religious services or other rites or ceremonies with the body of the deceased present.

 (15) ‘Graveside service’ means a rite or ceremony held only at graveside, which is not generally construed as the committal service which follows a funeral.

 (16) ‘Inspector’ means an inspector employed by the Department of Labor, Licensing and Regulation.

 (17) ‘Manager’ means a licensed funeral director who has been licensed in this State for at least one year, who is a full‑time regular employee, and who is responsible for and has the binding authority from the owner for the day‑to‑day management of funeral establishments or crematories including compliance with all applicable laws governed by this chapter and Chapters 7 and 8, Title 32.

 (18) ‘Memorial service’ means a gathering of persons for a program in recognition of a death without the presence of the body of the deceased.

 (19) ‘Practice of funeral service’ means:

 (a) engaging in providing shelter, care, and custody of the human dead;

 (b) the practice of preparing the human dead by embalming or other methods for burial or other disposition;

 (c) arranging for the transportation of the human dead;

 (d) making arrangements at or before the time of death, financial or otherwise, including arrangements for cremation, for providing these services, or the sale of funeral merchandise, whether for present or future use; provided, that no funeral director, embalmer, funeral company, cemetery, or related entity shall charge a fee for the assignment to the funeral director, embalmer, funeral company, cemetery, or related entity of an insurance policy providing burial expenses, excluding preneed contracts as provided in Section 32‑7‑35; and

 (e) engaging in the practice or performing any functions of funeral directing or embalming as presently recognized by persons engaged in these functions.

 (20) ‘Retail sales outlet’ means an establishment wherein funeral merchandise is sold or provided, or both, to the general public. A retail sales outlet may not contain lay‑out or chapel facilities and is restricted solely to the sale of funeral merchandise and may not handle or arrange for the handling or disposition, or both, of dead human remains and may not offer or execute preneed funeral contracts, except as authorized by Chapter 7, Title 32.

 (21) ‘Owner’ means a sole proprietor, partnership, limited partnership, corporation, limited liability corporation, or any business entity possessing authority and control over a funeral establishment.”

**Unprofessional conduct, advertising, requirements**

SECTION 2. Section 40‑19‑110(2) of the 1976 Code is amended to read:

 “(2) using false or misleading advertising or using the name of an unlicensed person in connection with that of a funeral establishment. An advertisement must include the physical address of the funeral home, funeral establishment, mortuary, or crematory where the advertised services will be provided. The board shall promulgate regulations establishing additional requirements for advertisements relating to providing funeral services, including Internet advertisements;”

**Time effective**

SECTION 3. This act takes effect upon approval by the Governor.

Ratified the 7th day of March, 2018.

Approved the 12th day of March, 2018.

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