

TRANSMITTAL SHEET FOR
NOTICE OF INTENDED ACTION

Control No. Department or Agency Alabama Board of Funeral Service

Rule No. 395-X-6-.15

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

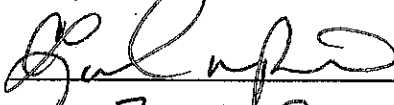
Is the increase in cost, if any, more harmful to the public than the harm that might result from the absence of the proposed rule? NO

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

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.

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 7-14-17

(DATE FILED)
(STAMP)

Alabama Board of Funeral Service

NOTICE OF INTENDED ACTION

<u>AGENCY NAME:</u>	Alabama Board of Funeral Service	
<u>RULE NO. & TITLE:</u>	395-X-6-.06	Embalming Records
	395-X-6-.07	Identification of Dead Human Bodies
	395-X-6-.09	Crematory "New Rule"
	395-X-6-.10	Crematory Holding Room "New Rule"
	395-X-6-.11	Refrigeration Unit "New Rule"
	395-X-6-.12	Combustible Cremation Container "New Rule"
	395-X-6-.13	Internal Identification System "New Rule"
	395-X-6-.14	Cremation Records "New Rule"
	395-X-6-.15	Inspection Penalties

INTENDED ACTION: The Alabama Board of Funeral Service proposes to amend Rule No. 395-X-6-.06, Rule No. 395-X-6-.07, and Rule No. 395-X-6-.15. The Alabama Board of Funeral Service proposes to add new rules as Rule No. 395-X-6-.09 titled "Crematory", Rule No. 395-X-6-.10 titled "Crematory Holding Room", Rule No. 395-X-6-.11 titled "Refrigeration Unit", Rule No. 395-X-6-.12 titled "Combustible Cremation Container", Rule No. 395-X-6-.13 titled "Internal Identification System, and Rule No. 395-X-6-.14 titled "Cremation Records".

SUBSTANCE OF PROPOSED ACTION: The Board proposes to amend Rule No. 395-X-6-.06 to add language require a written embalming authorization be obtain by the funeral establishment in addition to verbal authorization. The Board proposes to amend Rule No. 395-X-6-.07 to add required identifying information on a decedents identification band. The Board proposes to amend Rule No. 395-X-6-.15 formally 395-X-6-.09 to add penalties for minor violation for a crematory. The Board proposes to add new rule Rule No. 395-X-6-.09 titled "Crematory" to clarify who must comply with the crematory facility requirements. The Board proposes to add new rule Rule No. 395-X-6-.10 titled "Crematory Holding Room" to establish the requirements for a holding room in a crematory facility. The Board proposes to add new rule Rule No. 395-X-6-.11 titled "Refrigeration Unit" to establish the size and constant temperature of a refrigeration unit to retain human remains in a crematory facility and to prohibit stacking human remains on top of each other. The Board proposes to add new rule Rule No. 395-X-6-.12 titled "Combustible Cremation Container" to add language requiring identifying information of the decease be marked o the container. The Board proposes to add new rule Rule No. 395-X-6-.13 titled "Internal Identification System" to require metal tags be the internal identification system to be used by crematory, the placement of the metal at the completion of the process, and the requirement for all receptacles containing cremated remains be labeled with the identity of the remains. The Board proposes to add new rule Rule No. 395-X-6-.14 titled "Cremation Records" to list required information on the cremation log and cremation authorization form.

APA-2
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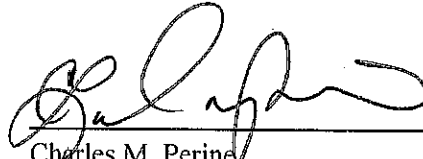
TIME, PLACE, MANNER OF PRESENTING VIEWS: Written or electronic mail comments will be accepted by the Board until:

Time: 4:30 p.m., Tuesday, September 5, 2017
Place: 11 South Union Street Suite 106, Montgomery, AL 36104
Email: Charles.perine@fsb.alabama.gov
Phone: 334-242-4049

FINAL DATE FOR COMMENT AND COMPLETION OF NOTICE: Tuesday, September 5, 2017

CONTACT PERSON AT AGENCY:

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



Charles M. Perine
Executive Director
Alabama Board of Funeral Service

Alabama Board of Funeral Service
ADMINISTRATIVE CODE

**CHAPTER 395-X-6
FUNERAL ESTABLISHMENT REQUIREMENTS**

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 395-X-6-.09 15 Inspection Penalties

395-X-6-.09 15 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 and fine or submit the matter to the board in accordance with the administrative procedures act . After a citation has been issued, the licensee shall either pay 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 citation fines for violations under this section are as follows:

Minimum Standards	Fine for Violating
1. Licenses	
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
2. Selection Room	
a. Each funeral establishment shall have a clean and neatly arranged selection or display room containing a stock of adult	\$200.00

caskets and funeral supplies displayed in full size, cuts, photographs, or electronic images of caskets for persons to view available funeral merchandise or supplies.	
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
3. Rest Room	
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
4. Preparation Room / Branch Location	
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 and 395-X-6-.07 by affixing a permanent non-detachable ankle bracelet with identifying information 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 inspecting the facilities of the funeral establishment.	\$400.00
11. Crematory Facilities	
(a) Clean, Orderly and Sanitary	\$100.00
(b) Nonporous floors	\$200.00
(c) Hot and cold running water.	\$100.00
(d) Operating processing equipment	\$200.00
(e) Operational Ventilation unit in conjunction with processor	\$200.00
(f) Necessary equipment and supplies to complete the cremation process	\$200.00
(g) Combustible Container being used	\$200.00 per body not in a combustible container
(h) Combustible Container present	\$200.00
(i) Identifying information on Combustible Container	\$100.00 per container not identified
(j) Operable Refrigeration system within the required constant temperature	\$200.00
(k) Metal Tags with identifying information	\$300.00
(l) Are Containers containing cremains properly identified	\$200.00 per container
12. Cremation Chamber	
(a) Reasonable clean and free of excessive residue	\$100.00
13. Record	
(a) Crematory Operator Certificates Posted	\$100.00
(b) Cremation Authorization meets requirements	\$500.00

(c) <u>State ID Forms being completed</u>	<u>\$500.00</u>
(d) <u>Cremation Log Current and has required information</u>	<u>\$200.00</u>
14. Pricing Requirements	
(a) <u>Does the establishment pricing meet the rules established by the Federal Trade Commission?</u>	<u>\$500.00</u>

(b). If the board finds a licensee guilty of any violation of Chapter 13, Title 34, Code of Alabama 1975 or Chapter 395 of the administrative code, including but not limited to, any violation of subsection (a) and the infractions therein, 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 June 6, 2014; effective July 11, 2014. **Amended:** Filed July 14, 2017