
A BILL FOR AN ACT

RELATING TO THE DEATH CARE INDUSTRY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Chapter 469, Hawaii Revised Statutes, is
2 amended by adding a new part to be appropriately designated and
3 to read as follows:

4 **"PART . FUNERAL DIRECTORS AND CEMETERY SALESPERSONS**

5 **"§469- Definitions.** As used in this part:

6 "Board" means the death care industry board.

7 "Cemetery salesperson" means a person who sells or offers
8 to sell; buys or offers to buy; lists; leases or offers to
9 lease; or solicits or negotiates the purchase, sale, lease, or
10 exchange of cemetery property or interment services.

11 "Funeral director" means a person who:

12 (1) Engages in one or more of the following practices:

13 (A) Directing or supervising funerals;

14 (B) Preparing human remains for burial by any means,
15 other than by embalming;

16 (C) Disposing of human remains;



1 (D) Making of arrangements to provide for funeral
2 services;

3 (E) Selling funeral services or merchandise; or

4 (F) Making financial arrangements for the rendering
5 of the services or the sale of funeral
6 merchandise; or

7 (2) Holds themselves out to the public as either a funeral
8 director or someone engaged in one of the practices
9 described herein.

10 "Funeral director" includes undertakers.

11 **§469- Death care industry board; established;**

12 **composition.** (a) There is established within the department of
13 commerce and consumer affairs pursuant to section 26-9 the death
14 care industry board.

15 (b) The board shall consist of eleven members, who shall
16 be appointed by the governor, by and with the advice and consent
17 of the senate, from a list of qualified nominees submitted to
18 the governor by the departments, agencies, education stakeholder
19 groups, and organizations representative of the subject matter
20 of the board.



1 (c) The members of the board shall be residents of the
2 State, of which:

3 (1) One member shall be a funeral service practitioner;

4 (2) Two members shall be representatives of an immediate
5 disposition company or a licensed funeral
6 establishment, at least one of whom shall be a
7 licensed embalmer;

8 (3) One member shall be a representative of a for-profit
9 cemetery;

10 (4) One member shall be a representative of a nonprofit
11 cemetery;

12 (5) One member shall be a representative of a cemetery
13 owned or operated by a government entity;

14 (6) One member shall be a representative of a crematorium
15 or any other facility, other than a cemetery, for
16 final disposition of human remains; and

17 (7) Four members shall be representatives of the public,
18 one of whom shall be a member of a recognized senior
19 citizen advocacy organization.

20 (d) The board shall elect from its membership one member
21 to serve as the chairperson of the board and one member to serve



1 as the secretary and treasurer of the board; provided that the
2 members shall only serve as chairperson or secretary and
3 treasurer for a term of one year.

4 (e) Each person appointed to the board shall have a
5 four-year term; provided that the initial appointments shall be
6 for staggered terms, as determined by the governor. The
7 governor shall immediately fill any vacancy by appointing a new
8 member for a four-year term beginning on the date of
9 appointment. No member shall serve more than two consecutive
10 terms, except that a member serving on the board pursuant to
11 subsection (c) (7) may serve more than two consecutive terms if
12 no other member of the public is willing to serve on the board.

13 (f) A board member shall be immediately removed from the
14 board if, during the member's term, the member:

- 15 (1) Fails to maintain residency in the State;
- 16 (2) Fails, without a valid excuse, to attend three
17 consecutive meetings;
- 18 (3) Fails to retain any licensure necessary for membership
19 on the board under subsection (c) (1) or (2); or



1 (4) Fails to maintain the member's status as an authorized
2 representative of an entity described in subsections
3 (c) (2) through (6).

4 (g) The board shall meet at least semiannually and may
5 meet at any other times as the board deems necessary.

6 (h) Each member shall be:

7 (1) Compensated at the rate of \$ per day for each
8 day's actual attendance to the member's duties;
9 provided that the compensation shall not exceed a
10 maximum of \$ per year; and

11 (2) Reimbursed for expenses, including reasonable travel
12 expenses, necessary for the performance of the
13 member's duties.

14 **§469- Death care industry board; powers and duties.**

15 (a) In addition to any other powers and duties authorized by
16 law, the board shall have all the powers necessary to effectuate
17 the purposes of this part, including the power to:

18 (1) Approve examinations for licensure as funeral
19 directors or cemetery salespersons;

20 (2) Grant, revoke, suspend, or refuse to renew a license
21 as provided in this part;



- 1 (3) Receive and conduct investigations regarding
2 complaints made against licensees or any other persons
3 performing the services of a funeral director or
4 cemetery salesperson in violation of this part;
- 5 (4) Hold hearings, subpoena witnesses and documents,
6 administer oaths, and receive affidavits and oral
7 testimony; and
- 8 (5) Adopt rules pursuant to chapter 91 to effectuate the
9 purposes of this part.
- 10 (b) The board:
- 11 (1) Shall, at least once every two years, inspect the
12 premises and records of each funeral director and
13 cemetery salesperson licensed pursuant to this part;
- 14 (2) May randomly inspect the premises and records
15 described in paragraph (1) at any time; and
- 16 (3) May establish a self-inspection program;
- 17 provided that the board shall only inspect the records described
18 herein to the extent necessary to ensure compliance with this
19 part or any rules adopted pursuant to this part, or both;
20 provided further that the board shall not inspect any area of
21 the premises described herein that is used as living quarters;



1 and provided further that the board may adopt rules pursuant to
2 chapter 91 to establish criteria to exempt funeral directors and
3 cemetery salespersons from the requirements of paragraph (1).

4 (c) The board shall employ:

5 (1) At least one full-time equivalent (1.0 FTE) employee
6 to perform inspections under subsection (c)(1) and (2)
7 and aid in the enforcement of the provisions of this
8 part and any rules adopted pursuant to this part; and

9 (2) Any other personnel necessary to assist the board in
10 the performance of its duties;

11 provided that the board shall not employ any person under this
12 paragraph who is a member of the board or actively engaged in a
13 profession or practice regulated by this part.

14 (d) After each revision to this part or any rules adopted
15 pursuant to this part, the board shall publish for distribution
16 to funeral directors, cemetery salespersons, and any other
17 interested persons, the provisions of this part and the rules
18 adopted pursuant to this part, except that any non-extensive
19 revisions to this part or any rules adopted under this part may
20 instead be published in supplementary form.



1 **§469- Death care industry board special fund;**
2 **established.** (a) There is established in the state treasury
3 the death care industry board special fund.

4 (b) The revenues of the special fund shall consist of
5 appropriations made by the legislature, fees charged by the
6 board, grants, gifts, any other moneys deposited into the
7 special fund in accordance with this part, and interest on
8 moneys deposited into the special fund.

9 (c) The special fund shall be used to administer and
10 enforce this part.

11 **§469- Funeral directors and cemetery salespersons;**
12 **licensure.** (a) No person shall practice as a funeral director
13 or cemetery salesperson in the State without having a valid
14 license in good standing issued by the board.

15 (b) The board shall adopt rules pursuant to chapter 91
16 establishing requirements for granting, revoking, suspending, or
17 refusing to renew the licenses of funeral directors and cemetery
18 salespersons, including qualifications, application
19 requirements, renewal requirements, and fees.

20 **§469- Penalty.** Any person who practices as a funeral
21 director or cemetery salesperson in violation of this part or



1 the rules adopted under this part shall be fined not less than \$
2 nor more than \$ or imprisoned not less than nor
3 more than , or both."

4 SECTION 2. Section 26-9, Hawaii Revised Statutes, is
5 amended by amending subsection (c) to read as follows:

6 "(c) The board of acupuncture, board of public
7 accountancy, board of barbering and cosmetology, boxing
8 commission, Hawaii board of chiropractic, contractors license
9 board, death care industry board, board of dentistry, board of
10 electricians and plumbers, elevator mechanics licensing board,
11 board of professional engineers, architects, surveyors, and
12 landscape architects, board of massage therapy, Hawaii medical
13 board, motor vehicle industry licensing board, motor vehicle
14 repair industry board, board of naturopathic medicine, board of
15 nursing, Hawaii board of optometry, pest control board, board of
16 pharmacy, board of physical therapy, board of psychology, board
17 of private detectives and guards, real estate commission, Hawaii
18 board of veterinary medicine, board of speech pathology and
19 audiology, and any board, commission, program, or entity created
20 pursuant to or specified by statute in furtherance of the
21 purpose of this section including but not limited to



1 section 26H-4, or chapters 484, 514B, and 514E shall be placed
2 within the department of commerce and consumer affairs for
3 administrative purposes.

4 The public utilities commission shall be placed, for
5 administrative purposes only, within the department of commerce
6 and consumer affairs. Notwithstanding section 26-9(e), (f),
7 (g), (h), (j), (k), (l), (m), (n), (p), (q), (r), and (s), and
8 except as permitted by sections 269-2 and 269-3, the department
9 of commerce and consumer affairs shall not direct or exert
10 authority over the day-to-day operations or functions of the
11 commission."

12 SECTION 3. Section 469-2, Hawaii Revised Statutes, is
13 amended to read as follows:

14 "**§469-2 Rules.** The department of health may prescribe
15 [~~such~~] any rules as it deems reasonable and proper relating to
16 the practice of embalming [~~, to the business of an undertaker,~~]
17 or to the sanitary condition of places where [~~such~~] the business
18 or practice of embalming is conducted. [~~The rules of the~~
19 ~~department may prescribe an original registration fee for the~~
20 ~~engaging by any person in the business of an undertaker and an~~
21 ~~annual renewal fee.~~"]



1 SECTION 4. Section 469-3, Hawaii Revised Statutes, is
2 amended to read as follows:

3 **"§469-3 Renewal of license.** Each licensed embalmer [~~or~~
4 ~~licensed undertaker or funeral director~~] shall, between July 1
5 and 10 of each year, renew the embalmer's [~~or undertaker's or~~
6 ~~funeral director's~~] license by registering with the department
7 of health and by paying a renewal fee. Every license that is
8 not so renewed shall expire on August 1 and shall not be renewed
9 except upon the payment of a delinquent fee."

10 SECTION 5. Section 469-5, Hawaii Revised Statutes, is
11 amended to read as follows:

12 **"§469-5 Disposition of fees.** All fees collected [~~by the~~
13 ~~board~~] pursuant to this part shall be deposited by the
14 department of health with the director of finance to the credit
15 of the general fund."

16 SECTION 6. Section 469-6, Hawaii Revised Statutes, is
17 amended to read as follows:

18 **"§469-6 Revocation of license.** A license issued pursuant
19 to this part may be revoked by the department of health upon
20 proof to its satisfaction of violation of any rule or regulation
21 of the department in any respect in regard thereto. Every



1 person so charged shall be given notice and opportunity for
2 hearing in conformity with chapter 91."

3 SECTION 7. Section 469-8, Hawaii Revised Statutes, is
4 amended to read as follows:

5 "~~§469-8~~ **Penalty.** Any person who practices as an embalmer
6 [~~or undertaker~~] without being registered with the department of
7 health as herein provided shall be fined not less than \$50 nor
8 more than \$250 or imprisoned not less than thirty days nor more
9 than ninety days, or both."

10 SECTION 8. Chapter 469, Hawaii Revised Statutes, is
11 amended by changing its title to read as follows:

12 "~~[UNDERTAKERS,]~~ **EMBALMERS, FUNERAL DIRECTORS, CEMETERY**
13 **SALESPERSONS**"

14 SECTION 9. Chapter 469, Hawaii Revised Statutes, is
15 amended by designating sections 469-1 to 469-8 as part I and
16 inserting a title before section 469-1 to read as follows:

17 **"PART I. EMBALMERS"**

18 SECTION 10. Section 441-25, Hawaii Revised Statutes, is
19 amended to read as follows:

20 "~~§441-25~~ [~~License~~] **Real estate license not required to act**
21 **as cemetery or pre-need funeral salesperson.** Chapter 467,



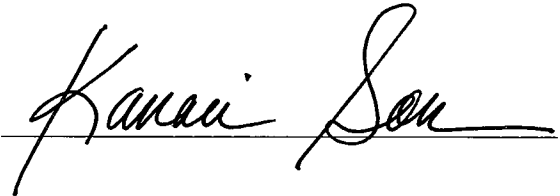
1 relating to real estate brokers and salespersons, shall not be
2 applicable to cemetery salespersons[-]; provided that cemetery
3 salespersons shall be licensed pursuant to chapter 469."

4 SECTION 11. Statutory material to be repealed is bracketed
5 and stricken. New statutory material is underscored.

6 SECTION 12. This Act shall take effect on January 1, 2024.

7

INTRODUCED BY:



JAN 24 2023



H.B. NO. 1229

Report Title:

Department of Commerce and Consumer Affairs; Funeral Directors; Cemetery Salespersons; Death Care Industry Board; Special Fund

Description:

Establishes the death care industry board to regulate the practices of funeral directing and cemetery sales. Establishes the death care industry board special fund. Requires funeral directors and cemetery salespersons to be licensed.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

