

HOUSE BILL 2569

By McCormick

AN ACT to amend Tennessee Code Annotated, Section 46-2-101; Section 56-1-213 and Title 62, relative to professional licenses.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Section 46-2-101, is amended by deleting the section in its entirety and substituting instead the following language:

(a)

(1) The owner of every cemetery may make, adopt, and enforce, and from time to time may amend, add to, revise, change, modify, or abolish, reasonable rules and regulations for:

(A) The use, care, control, management, restriction, and protection of the cemetery, and of all parts and subdivisions of the cemetery;

(B) Restricting, limiting, and regulating the use of all property within the cemetery;

(C) Regulating and preventing the introduction and care of plants or shrubs within the grounds;

(D) Regulating the conduct of persons and preventing improper assemblages in the cemetery; and

(E) All other purposes deemed necessary by the owner of the cemetery for the proper conduct of the business of the cemetery and the protection or safeguarding of the premises and the principles, plans, and ideas on which the cemetery was organized.

(2) The owner of the cemetery may prescribe penalties for the violation of any rule or regulation. These penalties may be recovered by the owner of the cemetery in a civil action.

(3) The rules and regulations shall be plainly printed or typewritten, posted conspicuously and maintained, subject to inspection and copying, at the usual place for transacting the regular business of the cemetery; provided, that no cemetery to which the provisions of chapter 1 of this title are applicable has the power to adopt any rule or regulation in conflict with any of the provisions of chapter 1 of this title or in derogation of the contract rights of lot owners.

(b)

(1) The owner of every cemetery has the further right to establish reasonable rules and regulations regarding the type, material, design, composition, finish, and specifications of all commodities to be used or installed in the cemetery. The rules and regulations shall be posted conspicuously and maintained, subject to inspection and copying, at the usual place for transacting the regular business of the cemetery. No cemetery owner has the right to prevent the use of any commodity purchased by a lot owner, or the owner's representative, agent, or heirs or assigns from any source; provided, that the use meets the rules.

(2) A cemetery owner shall be permitted to prohibit the installation of a commodity by noncemetery personnel; provided, that the fee charged by the cemetery owner for installation of the commodity does not exceed twenty-three cents (23¢) per square inch of the ground covered by the commodity. At the end of each calendar year, the cemetery owner shall be permitted to increase the fee for the installation of commodities by no more than the percentage representing the consumer price index at the end of that calendar year. The charge for installation of a commodity by the cemetery owner shall be the same to all

persons, regardless of the source of the commodity. The cemetery owner shall install all commodities furnished from sources other than the cemetery within thirty (30) days of the receipt of the commodity, weather permitting.

(3) If the fee charged by a cemetery owner for installation of a commodity exceeds the fee scale described in subdivision (b)(2), then the cemetery owner shall permit installation of the commodity by noncemetery personnel, if requested by the lot owner, or the owner's representative, agent, or heirs or assigns. If noncemetery personnel are permitted to install a commodity, they shall not be denied reasonable access to the lot or grave space for the purpose of installing or servicing the commodity. The cemetery owner shall not deny information pertinent to the place of burial and respective grave location or installation location of the commodity. The information shall be furnished within a reasonable period of time, not to exceed fourteen (14) days after receipt of the request for information. The cemetery owner shall not charge for furnishing the information necessary for the proper installation of the commodity.

(c) The cemetery owner shall not charge for any service not performed. The cemetery owner shall be allowed to charge an administrative, processing, or documentation fee; provided, however, that the fee is an equal amount charged to all cemetery customers and that the fee shall not exceed one hundred dollars (\$100) per agreement or transaction, including, but not limited to, allowing noncemetery personnel to install or have installed a commodity or monument. The cemetery owner shall not charge any fees on any transaction in addition to the cost of the merchandise or services other than the administrative, processing, or documentation fee.

(d) All cemetery owners shall have a full and complete schedule of all charges for services provided by the cemetery plainly printed or typewritten, posted

conspicuously and maintained, subject to inspection and copying, at the usual place for transacting the regular business of the cemetery. Any cemetery company that sells funeral merchandise must maintain a price list for that funeral merchandise that shall be provided to any person who inquires about funeral merchandise or the price of such merchandise.

SECTION 2. Tennessee Code Annotated, Section 56-1-213, is amended by deleting the words "via the Internet" and "on the Internet" wherever they appear.

SECTION 3. Tennessee Code Annotated, Section 62-2-304, is amended by designating the existing language as subsection (a) and adding the following language as a new, appropriately designated subsection:

(b) In addition to subsection (a), the board may, upon proper application for a certificate of registration, issue a certificate of registration as an architect to any person whose qualifications do not meet the requirements of this chapter and the rules established by the board if that person holds a like unexpired certificate of qualification or registration issued to such person by any state, territory, or possession of the United States or by any country; holds an unexpired national certificate issued by the National Council of Architectural Registration Boards; and presents proof of the certificates upon application to the board. The issuance of a certificate of registration pursuant to this subsection (b) is at the sole discretion of the board's determination that the applicant has qualifications suitable to be issued a certificate of registration in this state.

SECTION 4. Tennessee Code Annotated, Section 62-3-109, is amended by deleting subsection (c) in its entirety and substituting instead the following language:

(c)

(1) As used in this chapter, unless the context otherwise requires:

(A) "Designated manager" means a person licensed under chapter 3 or chapter 4 of this title in at least one (1) discipline that a shop is licensed to offer who serves in a supervisory or managerial capacity of the shop in the absence of the manager; and

(B) "Manager" means a person licensed under chapter 3 or chapter 4 of this title in at least one (1) discipline that a shop is licensed to offer who serves in a supervisory or managerial capacity in the shop whose information is filed with the board.

(2) Each shop licensed by the board shall designate a manager. The shop shall submit the name and license information of its manager upon application and renewal.

(3) It is unlawful to operate a shop unless it is, at all times, under the direction of a manager or designated manager. While on duty, the manager or designated manager shall be responsible for the shop's compliance with this chapter and the rules of the board. The board may require the name of the shop's manager or designated manager to be posted in such form and location as the board may prescribe.

(4) The manager and designated manager may manage those who practice disciplines in cosmetology or barbering other than the discipline in which the manager or designated manager is licensed; however, the manager or designated manager shall only practice within the field that the person is licensed.

SECTION 5. Tennessee Code Annotated, Section 62-4-102(a)(9), is amended by deleting the subdivision and substituting instead:

(9) "Manager" means a person licensed under chapter 3 or chapter 4 of this title in at least one (1) discipline that a shop is licensed to offer, who serves in a supervisory or managerial capacity in the shop, and whose information is filed with the board;

SECTION 6. Tennessee Code Annotated, Section 62-4-102(a), is amended by adding the following language as a new, appropriately designated subdivision, and renumbering the remaining subdivisions accordingly:

() "Designated manager" means a person licensed under chapter 3 or chapter 4 of this title in at least one (1) discipline that a shop is licensed to offer, and who serves in a supervisory or managerial capacity of the shop in the absence of the manager;

SECTION 7. Tennessee Code Annotated, Section 62-4-118, is amended by deleting the section in its entirety and substituting instead the following:

(a) Except as otherwise provided under this chapter, it is unlawful to operate a shop without conspicuously displaying a valid license issued by the board under this chapter.

(b) Each shop licensed by the board shall designate a manager. The shop shall submit the name and license information of its manager upon application and renewal.

(c) It is unlawful to operate a shop unless it is, at all times, under the direction of a manager or designated manager. While on duty, the manager or designated manager shall be responsible for the shop's compliance with this chapter, chapter 3 of this title, and the rules of the board. The board may require the name of the shop's manager or designated manager to be posted in such form and location as the board may prescribe.

(d) The manager and designated manager may manage those who practice disciplines in cosmetology or barbering, other than the discipline in which the manager or designated manager is licensed; however, the manager or designated manager shall only practice within the field that the person is licensed.

(e) An application for a license to operate a shop shall be submitted by its owner on the form prescribed by the board. The application shall include:

- (1) The location of the shop;
- (2) The type of shop;
- (3) The name of the manager; and
- (4) Other information that the board may require.

(f) Prior to the opening of a new shop or the relocation of an existing shop, the shop must pass an initial inspection after submission of a complete application for a license to operate the shop in accordance with subsection (e), accompanied by the fee for licensure and the fee for inspection, as prescribed by the board in rule. The inspection shall be made within ten (10) days of receipt by the board of a request for the inspection. If the shop passes the required inspection, the board shall issue a license to operate the shop unless the board refuses to issue the license pursuant to § 62-4-127(b) or as otherwise provided by this chapter, chapter 3 of this title, and the rules of the board.

(g)

(1) If the ownership of a shop changes, the new owner shall not operate the shop more than thirty (30) days after the date of the change of ownership unless, within the thirty-day period, the new owner has:

(A) Submitted an application for a license to operate the shop in accordance with subsection (e); and

(B) Paid the license fee and the inspection fee.

(2) If the transferred shop passes the required inspection, the board shall issue a license to operate the shop unless the board refuses to issue the license

pursuant to § 62-4-127(b) or as otherwise provided by this chapter, chapter 3 of this title, and the rules of the board.

(h) Pending issuance or denial by the board of a license to operate a shop, the owner may operate the shop if the owner displays:

(1) The official report showing that the shop has passed the required inspection; and

(2) A copy of a cashier's check or money order made payable to the state of Tennessee in the amount of the fee for the license.

(i) Each shop shall be inspected at least annually.

(j) All licenses to operate a shop shall expire on the last day of the month of the biennial anniversary date of the licenses.

(k) If the board is satisfied that the requirements of this chapter have been met, licenses to operate a shop may be renewed for another term upon completion and submission of the prescribed form, accompanied by the renewal fee prescribed by the board in rule.

(l) A penalty fee as set by the board by rule will be assessed on any renewal application postmarked after the expiration date of the license.

(m) The board may promulgate any and all rules necessary to allow for a shop where services are performed or offered to be performed in more than one (1) field of cosmetology, including aesthetics, natural hair styling, and manicuring, or in both cosmetology, or a field of cosmetology, and barbering to operate as a dual shop, including, but not limited to, rules to allow a dual shop to pay a single licensure or renewal fee and to undergo a single inspection.

SECTION 8. Tennessee Code Annotated, Section 62-3-115(1)(A), is amended by deleting the language ", exclusive of the tenth-grade education requirements set forth in § 62-3-110(b)(2)".

SECTION 9. Tennessee Code Annotated, Section 62-5-305(b)(7), is amended by deleting the subdivision in its entirety and substituting instead the following language:

(7) Has completed two (2) years of apprenticeship in the presence of and under the direction and supervision of a licensed funeral director. An associate's degree from a college accredited by the American Board of Funeral Service Education may be substituted for one (1) year of apprenticeship.

SECTION 10. Tennessee Code Annotated, Section 62-13-318, is amended by deleting the section in its entirety and substituting instead the following language:

62-13-318. Temporary Retirement.

(a)

(1) Upon written request accompanied by the license and the fee for change of status, any real estate firm, real estate broker, affiliate broker, time-share salesperson, or acquisition agent may temporarily retire the license.

(2) If the retiree wishes to remain in retirement for any portion of a subsequent license renewal period, the retiree shall pay the required license renewal fee prior to the license expiration date.

(3) No retired licensee may engage in any act defined in § 62-13-102.

(4) The retiree is responsible for advising the commission of the retiree's current mailing address.

(b)

(1) A licensee wishing to reactivate a license from retirement status shall submit the proper form and fee for a change of status.

(2) Reactivation of a temporarily retired license shall not be permitted until the licensee provides proof of completion of sixteen (16) classroom hours in real estate courses as specified in § 62-13-303 during the current license renewal period.

(c) Any license in inactive status with the commission on July 1, 2016, shall be transferred to retirement status on that date.

SECTION 11. Tennessee Code Annotated, Section 62-13-322, is amended by deleting the section in its entirety.

SECTION 12. The headings to sections, chapters, and parts in this act are for reference purposes only and do not constitute a part of the law enacted by this act. However, the Tennessee Code Commission is requested to include the headings in any compilation or publication containing this act.

SECTION 13. This act shall take effect July 1, 2016, the public welfare requiring it.