

1 A bill to be entitled
2 An act relating to animal cremation; creating s.
3 501.961, F.S.; providing a short title; defining
4 terms; requiring a provider of companion animal
5 cremation services to provide certain individuals and
6 entities with a written description of the services
7 that the provider offers; requiring the written
8 description to include a detailed explanation of each
9 service offered; providing that the written
10 description may not contain false or misleading
11 information; requiring certain persons or entities
12 that make referrals to providers or accept deceased
13 companion animals for cremation through a provider to
14 make the provider's written description of services
15 available to owners or their representatives;
16 providing construction; requiring certain providers to
17 include a certification with the returned animal's
18 cremation remains; providing requirements for the
19 certification; providing that certain acts are
20 unlawful; providing civil penalties for initial and
21 subsequent offenses; providing circumstances under
22 which a person commits an unfair or deceptive act or
23 practice or engages in an unfair method of competition
24 in violation of certain provisions; providing for a
25 private right of action; providing powers of the

26 Department of Agriculture and Consumer Services;
 27 requiring that certain fines collected by the
 28 department be paid into the General Inspection Trust
 29 Fund; authorizing the department to adopt rules;
 30 providing an effective date.

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 32 Be It Enacted by the Legislature of the State of Florida:

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 34 Section 1. Section 501.961, Florida Statutes, is created
 35 to read:

36 501.961 Animal cremation.-

37 (1) SHORT TITLE.-This section may be cited as "Sevilla's
 38 Law."

39 (2) DEFINITIONS.-As used in this section, the term:

40 (a) "Commingling of significant amounts of cremation
 41 remains from different companion animals" means the commingling
 42 of remains such that specific cremation remains cannot be
 43 attributed to a particular animal or the cremation remains
 44 attributed to one companion animal contain more than 1 percent
 45 by weight of cremation remains from one or more other companion
 46 animals. The term does not include the presence, in the
 47 cremation remains of a companion animal, of the remains of any
 48 creature that was on or contained within the body of that animal
 49 at the time of cremation, including parasites, insects, food, or
 50 creatures eaten by that companion animal.

51 (b) "Communal cremation" means a cremation process in
52 which companion animals are cremated together without effective
53 partitions or separation during the cremation process such that
54 the commingling of significant amounts of cremation remains from
55 different companion animals is likely or certain to occur.

56 (c) "Companion animal" or "animal" means a deceased animal
57 that had a companion relationship or a pet relationship with its
58 owner at the time of the animal's death.

59 (d) "Cremation remains" means the material remaining after
60 the cremation of an animal, which may include ashes, skeletal
61 remains, and other residue resulting from the incineration
62 process, and which may be pulverized or otherwise processed by
63 the provider of cremation services.

64 (e) "Department" means the Department of Agriculture and
65 Consumer Services.

66 (f) "Individually partitioned cremation" means a cremation
67 process in which the commingling of significant amounts of
68 cremation remains from different companion animals is unlikely
69 to occur and:

70 1. Only one companion animal at a time is cremated in the
71 incinerator; or

72 2. More than one companion animal is cremated in the
73 incinerator at the same time, but each of the animals is
74 completely separated from the others by partitions during the
75 cremation process.

76 (g) "On a regular basis" means that the person or business
 77 entity referring animal owners or bringing business to a
 78 provider:

79 1. Has an ongoing contractual or agency relationship with
 80 the provider relating to the cremation of companion animals;

81 2. Regularly receives compensation or consideration from
 82 the provider or animal owners relating to the cremation of
 83 companion animals by the provider; or

84 3. Refers or brings to the provider the business of more
 85 than five animal owners in an average month.

86 (h) "Provider" means a person, company, or other entity
 87 engaging in the business of cremating deceased companion animals
 88 in this state.

89 (3) WRITTEN DESCRIPTION OF SERVICES.-

90 (a) A provider of companion animal cremation services
 91 shall provide, without charge, to all of the following a written
 92 description of the services that the provider offers:

93 1. The owner of each deceased animal for whom the provider
 94 agrees to provide cremation services, or the person making
 95 cremation arrangements on the owner's behalf.

96 2. All veterinarians, pet shops, and other business
 97 entities or persons known to the provider who refer animal
 98 owners or bring deceased animals to the provider on a regular
 99 basis.

100 3. The department.

101 4. Any other person, upon request.

102 (b) The written description of services:

103 1. May be in the form of a brochure;

104 2. Must be provided in quantities sufficient to allow its
 105 distribution to animal owners whose business is being referred
 106 or brought to the provider;

107 3. Must include a detailed explanation of each service
 108 offered for each type or level of cremation service offered. If
 109 any part of the deceased companion animal will be removed, used,
 110 or sold by the provider before or after the cremation, the
 111 written description of services must disclose that fact; and

112 4. May not include false or misleading information. A
 113 written description of services is misleading if it:

114 a. Fails to include a detailed explanation of the
 115 cremation services offered or fails to include, for each type or
 116 level of cremation service offered, any of the disclosures
 117 required under this subsection;

118 b. Uses the terms "private" or "individual" with respect
 119 to any communal cremation procedure or with respect to an
 120 individually partitioned cremation procedure that will cremate
 121 more than one companion animal at the same time;

122 c. Uses the terms "individually partitioned" or "separate"
 123 with respect to a communal cremation process; or

124 d. Includes any text, picture, illustration, or
 125 combination thereof, or uses any layout, typography, or color

126 scheme, which reasonably causes confusion about the nature of
127 the services to be provided or obstructs certain parts of the
128 written description of services.

129 (4) BUSINESS ENTITIES OR PERSONS REFERRING OR BRINGING
130 BUSINESS TO A PROVIDER.—

131 (a) A veterinarian, pet shop, or other business entity or
132 person referring owners of deceased animals, or persons making
133 arrangements on an owner's behalf, to a provider on a regular
134 basis shall, at the time of the referral, make a copy of the
135 provider's written description of services available to such
136 person.

137 (b) A veterinarian, pet shop, or other business entity or
138 person accepting, on a regular basis, deceased companion animals
139 for cremation through services obtained from a provider shall
140 make a copy of the provider's written description of services
141 available to each animal owner, or person making arrangements on
142 the owner's behalf, from whom a deceased companion animal is
143 accepted.

144 (c) A copy of the written description of services may be
145 given to the animal owner, or the person making arrangements on
146 the owner's behalf, at the time the services are offered.

147 (d) For purposes of this subsection, publishing or
148 otherwise disseminating advertising for a provider of companion
149 animal cremation services does not, in and of itself, constitute
150 referring or bringing business to that provider.

151 (5) CERTIFICATION; PENALTY FOR FALSE CERTIFICATION.—If a
152 provider's services include the return of the cremation remains
153 of the animal, the provider must include a certification along
154 with the returned cremation remains. The certification must
155 declare, to the best of the provider's knowledge and belief,
156 that, except as otherwise specifically indicated on the
157 certificate, the cremation and any other services specified were
158 provided in accordance with the representations of the provider
159 in the applicable portions of the provider's written description
160 of services.

161 (6) UNLAWFUL ACTS.—It is unlawful:

162 (a) For a provider to prepare or distribute a written
163 description of services which the provider knows or should know
164 to be false or misleading. A first offense is punishable by a
165 fine of at least \$1,001 but not more than \$1,500, and each
166 subsequent offense is punishable by a fine of at least \$2,000
167 but not more than \$2,500.

168 (b) To intentionally fail to prepare or distribute a
169 written description of services as required by this section. A
170 first offense is punishable by a fine of at least \$1,001 but not
171 more than \$1,500, and each subsequent offense is punishable by a
172 fine of at least \$2,000 but not more than \$2,500.

173 (c) To knowingly make a false certification under
174 subsection (5). A first offense is punishable by a fine of at
175 least \$1,001 but not more than \$1,500, and each subsequent

176 offense is punishable by a fine of at least \$2,000 but not more
 177 than \$2,500.

178 (7) VIOLATION AS A DECEPTIVE ACT OR PRACTICE OR UNFAIR
 179 TRADE PRACTICE.—In addition to any fine imposed under subsection
 180 (6), a person who commits an act or a practice declared to be
 181 unlawful under subsection (6) or who violates this section
 182 commits an unfair method of competition or an unfair or
 183 deceptive act or practice in violation of part II of chapter 501
 184 and is subject to the penalties and remedies provided for such
 185 violations.

186 (8) PRIVATE RIGHT OF ACTION.—In addition to any other
 187 penalties or remedies provided by law, a person injured by a
 188 violation of this act may bring a civil action to recover
 189 damages or punitive damages, including costs, court costs, and
 190 attorney fees. This act may not be construed to limit any right
 191 or remedy provided under law.

192 (9) POWERS OF THE DEPARTMENT.—

193 (a) The department may conduct an investigation of any
 194 person or provider if there is an appearance, either upon
 195 complaint or otherwise, that a violation of this section or of
 196 any rule adopted or order issued pursuant to this section has
 197 been committed or is about to be committed.

198 (b) The department may issue and serve subpoenas and
 199 subpoenas duces tecum to compel the attendance of witnesses and
 200 the production of all books, accounts, records, and other

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201 documents and materials relevant to an examination or
202 investigation. The department, or its duly authorized
203 representative, may administer oaths and affirmations to any
204 person.

205 (c) The department may enter an order imposing one or more
206 of the penalties set forth in subsection (6) if the department
207 finds that a provider or a person or business entity that
208 regularly refers animal owners to a provider, or an agent, a
209 servant, or an employee thereof:

210 1. Violated or is operating in violation of this section
211 or department rule or order;

212 2. Refused or failed, or any of its principal officers
213 refused or failed, after notice, to produce any records of such
214 provider, person, or business entity or to disclose any
215 information required to be disclosed under this section or
216 department rules; or

217 3. Made a material false statement in response to any
218 department request or investigation.

219 (d) Upon a finding as set forth in paragraph (c), the
220 department may enter an order that does one or more of the
221 following:

222 1. Issues a notice of noncompliance pursuant to s.
223 120.695.

224 2. Issues a cease and desist order that directs that the
225 provider, person, or business entity cease and desist specified

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226 activities.

227 3. Imposes an administrative fine in the Class II category
228 pursuant to s. 570.971 for each act or omission.

229 4. Imposes an administrative fine in the Class III
230 category pursuant to s. 570.971 for each act or omission that
231 involves fraud or deception.

232 (e) Except as otherwise provided in this section, the
233 administrative proceedings that could result in the entry of an
234 order imposing any of the penalties specified in paragraph (d)
235 are governed by chapter 120.

236 (f) All fines collected by the department under paragraph
237 (d) must be paid into the General Inspection Trust Fund.

238 (10) RULEMAKING AUTHORITY.—The department may adopt rules
239 pursuant to ss. 120.536(1) and 120.54 to implement this section.

240 Section 2. This act shall take effect July 1, 2022.