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# 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) The members of the board shall serve without  
7 compensation but shall be reimbursed for expenses, including  
8 reasonable travel expenses, necessary for the performance of  
9 their duties.

10 §469- Death care industry board; powers and duties.

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

- 14 (1) Approve examinations for licensure as funeral  
15 directors or cemetery salespersons;
- 16 (2) Grant, revoke, suspend, or refuse to renew a license  
17 as provided in this part;
- 18 (3) Receive and conduct investigations regarding  
19 complaints made against licensees or any other persons  
20 performing the services of a funeral director or  
21 cemetery salesperson in violation of this part;



1           (4) Hold hearings, subpoena witnesses and documents,  
2           administer oaths, and receive affidavits and oral  
3           testimony; and

4           (5) Adopt rules pursuant to chapter 91 to effectuate the  
5           purposes of this part.

6           (b) The board:

7           (1) Shall, at least once every two years, inspect the  
8           premises and records of each funeral director and  
9           cemetery salesperson licensed pursuant to this part;

10          (2) May randomly inspect the premises and records  
11          described in paragraph (1) at any time; and

12          (3) May establish a self-inspection program;

13 provided that the board shall only inspect the records described  
14 herein to the extent necessary to ensure compliance with this  
15 part or any rules adopted pursuant to this part, or both;

16 provided further that the board shall not inspect any area of  
17 the premises described herein that is used as living quarters;

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

21          (c) The board shall employ:



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

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

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

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

17 §469- Death care industry board special fund;  
18 established. (a) There is established in the state treasury  
19 the death care industry board special fund.

20 (b) The revenues of the special fund shall consist of  
21 appropriations made by the legislature, fees charged by the



1 board, grants, gifts, any other moneys deposited into the  
2 special fund in accordance with this part, and interest on  
3 moneys deposited into the special fund.

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

6 §469- Funeral directors and cemetery salespersons;  
7 licensure. (a) No person shall practice as a funeral director  
8 or cemetery salesperson in the State without having a valid  
9 license in good standing issued by the board.

10 (b) The board shall adopt rules pursuant to chapter 91  
11 establishing requirements for granting, revoking, suspending, or  
12 refusing to renew the licenses of funeral directors and cemetery  
13 salespersons, including qualifications, application  
14 requirements, renewal requirements, and fees.

15 §469- Penalty. Any person who practices as a funeral  
16 director or cemetery salesperson in violation of this part or  
17 the rules adopted under this part shall be fined not less than  
18 \$ nor more than \$ or imprisoned not less  
19 than nor more than , or both."

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





1           "(c) The board of acupuncture, board of public  
2 accountancy, board of barbering and cosmetology, boxing  
3 commission, Hawaii board of chiropractic, contractors license  
4 board, death care industry board, board of dentistry, board of  
5 electricians and plumbers, elevator mechanics licensing board,  
6 board of professional engineers, architects, surveyors, and  
7 landscape architects, board of massage therapy, Hawaii medical  
8 board, motor vehicle industry licensing board, motor vehicle  
9 repair industry board, board of naturopathic medicine, board of  
10 nursing, Hawaii board of optometry, pest control board, board of  
11 pharmacy, board of physical therapy, board of psychology, board  
12 of private detectives and guards, real estate commission, Hawaii  
13 board of veterinary medicine, board of speech pathology and  
14 audiology, and any board, commission, program, or entity created  
15 pursuant to or specified by statute in furtherance of the  
16 purpose of this section including but not limited to section  
17 26H-4, or chapters 484, 514B, and 514E shall be placed within  
18 the department of commerce and consumer affairs for  
19 administrative purposes.

20           The public utilities commission shall be placed, for  
21 administrative purposes only, within the department of commerce



1 and consumer affairs. Notwithstanding section 26-9(e), (f),  
2 (g), (h), (j), (k), (l), (m), (n), (p), (q), (r), and (s), and  
3 except as permitted by sections 269-2 and 269-3, the department  
4 of commerce and consumer affairs shall not direct or exert  
5 authority over the day-to-day operations or functions of the  
6 commission."

7 SECTION 3. Section 441-25, Hawaii Revised Statutes, is  
8 amended to read as follows:

9 "§441-25 [~~License~~] Real estate license not required to act  
10 as cemetery or pre-need funeral salesperson. Chapter 467,  
11 relating to real estate brokers and salespersons, shall not be  
12 applicable to cemetery salespersons[~~-~~]; provided that cemetery  
13 salespersons shall be licensed pursuant to chapter 469."

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

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



1 ~~engaging by any person in the business of an undertaker and an~~  
2 ~~annual renewal fee.] "~~

3 SECTION 5. Section 469-3, Hawaii Revised Statutes, is  
4 amended to read as follows:

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

12 SECTION 6. Section 469-5, Hawaii Revised Statutes, is  
13 amended to read as follows:

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

18 SECTION 7. Section 469-6, Hawaii Revised Statutes, is  
19 amended to read as follows:

20 "§469-6 Revocation of license. A license issued pursuant  
21 to this part may be revoked by the department of health upon



1 proof to its satisfaction of violation of any rule or regulation  
2 of the department in any respect in regard thereto. Every  
3 person so charged shall be given notice and opportunity for  
4 hearing in conformity with chapter 91."

5 SECTION 8. Section 469-8, Hawaii Revised Statutes, is  
6 amended to read as follows:

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

12 SECTION 9. Chapter 469, Hawaii Revised Statutes, is  
13 amended by changing its title to read as follows:

14 "~~[UNDERTAKERS,]~~ EMBALMERS, FUNERAL DIRECTORS, CEMETERY  
15 SALESPERSONS"

16 SECTION 10. Chapter 469, Hawaii Revised Statutes, is  
17 amended by designating sections 469-1 to 469-8 as part I and  
18 inserting a title before section 469-1 to read as follows:

19 "PART I. EMBALMERS"



1 SECTION 11. This Act does not affect rights and duties  
2 that matured, penalties that were incurred, and proceedings that  
3 were begun before its effective date.

4 SECTION 12. Statutory material to be repealed is bracketed  
5 and stricken. New statutory material is underscored.

6 SECTION 13. This Act shall take effect on January 1, 2024.

7

INTRODUCED BY:

*Kanani Iouy*

JAN 19 2024



# H.B. NO. 2149

**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.*

