

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2023

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HOUSE BILL 278
PROPOSED COMMITTEE SUBSTITUTE H278-PCS30195-CK-10

Short Title: The Rakim Shackelford Embalming Fluid Act.

(Public)

Sponsors:

Referred to:

March 7, 2023

1 A BILL TO BE ENTITLED
2 AN ACT TO CREATE THE OFFENSE OF CRIMINAL POSSESSION AND UNLAWFUL
3 SALE OF EMBALMING FLUID AND TO MAKE OTHER TECHNICAL REVISIONS.

4 The General Assembly of North Carolina enacts:

5 **SECTION 1.** This act shall be known as "The Rakim Shackelford Embalming Fluid
6 Act."

7 **SECTION 2.** G.S. 90-210.20 reads as rewritten:

8 **"§ 90-210.20. Definitions.**

9 The following definitions apply in this Article:

10 ~~(a)(1)~~ "Advertisement" means the Advertisement. – The publication, dissemination,
11 circulation or placing before the public, or causing directly or indirectly to be
12 made, published, disseminated or placed before the public, any announcement
13 or statement in a newspaper, magazine, or other publication, or in the form of
14 a book, notice, circular, pamphlet, letter, handbill, poster, bill, sign, placard,
15 card, label or tag, or over any radio, television station, or electronic medium.

16 ~~(b)(2)~~ "Board" means the Board. – The North Carolina Board of Funeral Service.

17 ~~(c)(3)~~ "Burial" includes Burial. – Includes interment in any form, cremation and the
18 transportation of the dead human body as necessary therefor.

19 ~~(e1)(4)~~ "Chapel" means a Chapel. – A chapel or other facility separate from the
20 funeral establishment premises for the primary purpose of reposing of dead
21 human bodies, visitation or funeral ceremony that is owned, operated, or
22 maintained by a funeral establishment under this Article, and that does not use
23 the word "funeral" in its name, on a sign, in a directory, in advertising or in
24 any other manner; in which or on the premises of which there is not displayed
25 any caskets or other funeral merchandise; in which or on the premises of
26 which there is not located any preparation room; and which no owner,
27 operator, employee, or agent thereof represents the chapel to be a funeral
28 establishment.

29 ~~(e2)(5)~~ "Dead human bodies", as used in this Article includes Dead human bodies. –
30 Includes fetuses beyond the second trimester and the ashes from cremated
31 bodies.

32 ~~(d)(6)~~ "Embalmer" means any Embalmer. – Any person engaged in the practice of
33 embalming.

34 ~~(e)(7)~~ "Embalming" means the Embalming. – The preservation and disinfection or
35 attempted preservation and disinfection of dead human bodies by application
36 of chemicals externally or internally or both and the practice of restorative art



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1 including the restoration or attempted restoration of the appearance of a dead
2 human body. Embalming shall not include the washing or use of soap and
3 water to cleanse or prepare a dead human body for disposition by the
4 authorized agents, family, or friends of the deceased who do so privately
5 without pay or as part of the ritual washing and preparation of dead human
6 bodies prescribed by religious practices; provided, that no dead human body
7 shall be handled in a manner inconsistent with G.S. 130A-395.

8 (8) Embalming fluid. – Any chemicals or substances manufactured primarily for
9 use by licensed funeral directors, undertakers or embalmers, or registered
10 residents to prepare, disinfect, or preserve, either hypodermically, arterially,
11 or by any other recognized means, the body of a deceased person for burial,
12 cremation, or other final disposition.

13 ~~(e1)(9) "Entry-level examination in funeral directing" means an~~ Entry-level
14 examination in funeral directing. – An examination (i) offered as a component
15 of a final or capstone course in a mortuary science program approved by the
16 Board or (ii) accredited by the American Board of Funeral Service Education
17 or an examination equivalent to the State Board Examination-Arts in Funeral
18 Directing to assess competency in all of the following subjects:

19 ~~(1)a.~~ Funeral arranging and directing.

20 ~~(2)b.~~ Funeral service marketing and merchandising.

21 ~~(3)c.~~ Funeral service counseling.

22 ~~(4)d.~~ Legal and regulatory compliance.

23 ~~(5)e.~~ Cemetery and crematory operations.

24 ~~(f)(10) "Funeral directing" means engaging~~ Funeral directing. – Engaging in the
25 practice of funeral service except embalming.

26 ~~(g)(11) "Funeral director" means any~~ Funeral director. – Any person engaged in the
27 practice of funeral directing.

28 ~~(h)(12) "Funeral establishment" means every~~ Funeral establishment. – Every place or
29 premises devoted to or used in the care, arrangement and preparation for the
30 funeral and final disposition of dead human bodies and maintained for the
31 convenience of the public in connection with dead human bodies or as the
32 place for carrying on the practice of funeral service.

33 ~~(i)(13) "Funeral service licensee" means a person who is duly licensed and engaged~~
34 ~~in the practice of funeral service.~~ Funeral service. – The aggregate of all
35 funeral service licensees and their duties and responsibilities in connection
36 with the funeral as an organized, purposeful, time-limited, flexible,
37 group-centered response to death.

38 ~~(j)(14) "Funeral service" means the aggregate of all funeral service licensees and their~~
39 ~~duties and responsibilities in connection with the funeral as an organized,~~
40 ~~purposeful, time limited, flexible, group centered response to death.~~ Funeral
41 service licensee. – A person who is duly licensed and engaged in the practice
42 of funeral service.

43 ~~(k)(15) "Practice of funeral service" means engaging~~ Practice of funeral service. –
44 Engaging in the care or disposition of dead human bodies or in the practice of
45 disinfecting and preparing by embalming or otherwise dead human bodies for
46 the funeral service, transportation, burial or cremation, or in the practice of
47 funeral directing or embalming as presently known, whether under these titles
48 or designations or otherwise. "Practice of funeral service" also means
49 engaging in making arrangements for funeral service, selling funeral supplies
50 to the public or making financial arrangements for the rendering of such
51 services or the sale of such supplies.

~~(A)(16)~~ "Resident trainee" means a Resident trainee. – A person who is engaged in preparing to become licensed for the practice of funeral directing, embalming or funeral service under the personal supervision and instruction of a person duly licensed for the practice of funeral directing, embalming or funeral service in the State of North Carolina under the provisions of this Chapter, and who is duly registered as a resident trainee with the Board."

SECTION 3. Article 13A of Chapter 90 of the General Statutes is amended by adding a new section to read:

"§ 90-210.29C. Unlawful sale of embalming fluid.

(a) Offense. – It is unlawful for a funeral director, embalmer, or resident trainee to knowingly give, sell, permit to be sold, offer for sale, or display for sale, other than for purposes within the general scope of their activities as a funeral director, embalmer, or resident trainee, embalming fluid to another person with actual knowledge that the person is not a funeral director, embalmer, or resident trainee.

(b) Punishment. – A person who violates subsection (a) of this section is guilty of a Class I felony, including a fine of not less than one hundred dollars (\$100.00) and not more than five hundred dollars (\$500.00)."

SECTION 4. Chapter 90 of the General Statutes is amended by adding a new Article to read:

"Article 5H.

"Miscellaneous Drug-Related Regulations.

"§ 90-113.107. Criminal possession of embalming fluid.

(a) Definition. – For purposes of this section, the following terms are as defined in G.S. 90-210.20:

- (1) Embalmer.
- (2) Embalming.
- (3) Embalming fluid.
- (4) Funeral director.
- (5) Resident trainee.

(b) Offense. – Both of the following are unlawful:

- (1) Possessing embalming fluid for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity or the lawful preservation of wildlife by a person licensed in taxidermy pursuant to G.S. 113-273(k).
- (2) Selling, delivering, or otherwise distributing embalming fluid to another person with knowledge that the person intends to utilize the embalming fluid for any purpose other than the lawful preservation of dead human bodies by a person authorized by law to engage in such activity or the lawful preservation of wildlife by a person licensed in taxidermy pursuant to G.S. 113-273(k).

(c) Punishment. – A person who commits a violation of subsection (b) of this section shall be punished as follows:

- (1) If the violation involves less than 28 grams, the violation shall be punished as a Class I felony.
- (2) If the violation involves 28 grams or more of embalming fluid, but less than 200 grams, the violation shall be punished as a Class G felony.
- (3) If the violation involves 200 grams or more of embalming fluid, but less than 400 grams, the violation shall be punished as a Class F felony.
- (4) If the violation involves 400 grams or more of embalming fluid, the violation shall be punished as a Class D felony.

(d) Construction. – Nothing in this section shall be construed as prohibiting possession of embalming fluid by, or selling, delivering, or otherwise distributing embalming fluid to,

1 funeral directors, embalmers, resident trainees, or licensed taxidermists for the purposes of
2 embalming."

3 **SECTION 5.** G.S. 90-96.2(c3) reads as rewritten:

4 "(c3) Covered Offenses. – A person shall have limited immunity from prosecution under
5 subsections (b) and (c) of this section for only the following offenses:

6 (1) A misdemeanor violation of G.S. 90-95(a)(3).

7 (2) A felony violation of G.S. 90-95(a)(3) for possession of less than one gram of
8 cocaine.

9 (3) A felony violation of G.S. 90-95(a)(3) for possession of less than one gram of
10 heroin.

11 (3a) A violation of G.S. 90-113.107 punishable as a Class I felony.

12 (4) A violation of G.S. 90-113.22."

13 **SECTION 6.** This act becomes effective December 1, 2023, and applies to offenses
14 committed on or after that date.