

1979 WL 42959 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

April 25, 1979

**\*1 Re: Opinion Request Concerning Crematories**

Mr. C. R. Hinshaw, Jr.  
Executive Secretary  
South Carolina State  
Board of Funeral Service  
P.O. Box 201  
Clover, S. C. 29710

Dear Mr. Hinshaw:

You have asked for the opinion of this Office concerning the following questions:

- (1) Does the State Board of Funeral Service have the duty or the authority to issue a permit for a crematory?
  
- (2) Is it necessary for the operator of a crematory to have a funeral director's license?

It is the opinion of this Office that both questions should be answered in the affirmative.

Pursuant to [§ 40-19-250 of the 1976 South Carolina Code](#) of Laws, each funeral establishment in this State must obtain a permit issued by the Funeral Service Board to operate. Thus the question of whether or not a crematory must be issued a permit by the Board turns upon the question of whether or not a crematory is a 'funeral establishment' within the meaning of the funeral service law. § 40-19-10(7) defines the term 'funeral establishment' as

' . . . a place of business used in the care and preparation for burial or transportation or other disposal of dead human bodies, or any place or premises at or from which any person or persons shall represent himself or themselves or hold out himself or themselves as being engaged in the profession of funeral directing or of embalming, or both.' (Emphasis added)

There can be little doubt that cremation is a method of disposing of dead human bodies. Hence, if a crematory is operated as a 'place of business,' it seems clear that a crematory would be a 'funeral establishment' within the meaning of the foregoing definition. And if the concern is a 'funeral establishment,' it is clear from [§ 40-19-250](#) that a permit to operate must be obtained from the State Board of Funeral Service.

You have also asked whether the operator of a crematory must have a funeral director's license. [§ 40-19-250](#) provides in part that the 'permit shall designate the location of the establishment and the name or names of the manager or managers, each of whom must hold a current South Carolina funeral director's license.' That Section further provides that the 'permit shall also be subject to cancellation for failure of the funeral establishment to retain a licensed funeral director as manager.' The foregoing passages make clear that the manager of a 'funeral establishment' must have a funeral director's license in order to obtain a permit from the Board. Since a crematory is a 'funeral establishment' within the meaning of the funeral service law, and since it is necessary to obtain a permit from the Board in order to operate a crematory in this State, it is the opinion of this Office that the operator of a crematory must have a valid funeral director's license in order to operate.

I trust that this information will be of assistance to you.

Very truly yours,

L. Kennedy Boggs

\*2 Assistant Attorney General

1979 WL 42959 (S.C.A.G.)

---

End of Document

© 2015 Thomson Reuters. No claim to original U.S. Government Works.