

Article - Business Regulation

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§5–204.

(a) (1) With the advice of the Advisory Council and after consultation with representatives of the cemetery industry, the Director shall adopt:

(i) rules and regulations to carry out this title; and

(ii) a code of ethics for engaging in the operation of a cemetery or crematory or providing burial goods.

(2) In conjunction with the State Board of Morticians and Funeral Directors, the Director shall:

(i) establish a process for regulating crematories that provides for:

1. registration of crematory operators or issuance of permits for operating crematories, and renewal;

2. applications, including certification of ownership and identification of individuals who will perform cremation;

3. registration and permit fees;

4. inspections and oversight;

5. grounds for discipline and penalties; and

6. complaints and hearings; and

(ii) adopt regulations that are identical to regulations adopted by the State Board of Morticians and Funeral Directors to:

1. implement item (i) of this paragraph; and

2. ensure public health and safety.

(b) Upon receipt of a written complaint, or at the discretion of the Director, the Director or the Director's designee may conduct an investigation and an inspection of the records and site of a registered cemeterian, registered crematory operator, registered seller, permit holder, or any other person subject to the registration or permit provisions of this title.

(c) The Director may hold hearings on any matter covered by this title.

(d) To enforce this title, the Director may:

- (1) administer oaths;
- (2) examine witnesses; and
- (3) receive evidence.

(e) (1) The Director may issue a subpoena for the attendance of a witness to testify or for the production of evidence in connection with any investigation or hearing conducted in accordance with this section.

(2) If a person fails to comply with a subpoena issued under this subsection, on petition of the Director, a circuit court may compel compliance with the subpoena.

(f) (1) The Director may sue in the name of the State to enforce any provision of this title by injunction.

(2) In seeking an injunction under this subsection, the Director is not required to:

- (i) post bond; or
- (ii) allege or prove either that:

1. an adequate remedy at law does not exist; or
2. substantial or irreparable damage would result from the continued violation of the provision.

(3) The Director or staff may not be held personally liable for any action taken under this title in good faith and with reasonable grounds.

(g) The Director may issue a cease and desist order, if the Director finds a violation of this title.

(h) The Director may refer to the Office of the Attorney General:

(1) a violation of this title for enforcement; and

(2) an alleged unfair or deceptive trade practice under Title 13 of the Commercial Law Article.

(i) (1) For each fiscal year, the Director shall maintain a list of:

(i) all registrants and permit holders;

(ii) all for-profit cemeteries and nonreligious-nonprofit cemeteries associated with a registrant or permit holder; and

(iii) all bona fide religious–nonprofit cemeteries, veterans’ cemeteries, and local government–owned cemeteries that have filed a statement or report required under §§ 5–405, 5–606, and 5–710 of this title.

(2) All lists maintained by the Director shall be open to inspection by any person.

(3) Based on the list maintained by the Director under paragraph (1)(i) of this subsection, the Director shall include in the annual report to the General Assembly required under subsection (1)(3) of this section the following information as of June 30 of the year that is the subject of the report:

(i) the total number of registrants and permit holders; and

(ii) the number of registrants and permit holders for each licensing category.

(j) (1) The Director shall distribute a copy of the Maryland Cemetery Act, code of ethics, and applicable regulations to each applicant for registration or permit.

(2) Upon renewal of a registration or permit, the Director shall distribute any amendments to the Maryland Cemetery Act, code of ethics, or applicable rules and regulations that have occurred since the last application.

(k) In conjunction with the State Board of Morticians and the Division of Consumer Protection of the Office of the Attorney General, the Director shall publish a consumer information pamphlet that describes:

(1) the rights of consumers in the purchase of funeral, cemetery, and crematory goods and services; and

(2) any other information that the Director considers reasonably necessary to aid consumers.

(l) (1) Beginning with a report due on December 1, 2008, the Director shall conduct an inventory of all known burial sites in the State and shall update the inventory and report every 5 years to the General Assembly, in accordance with § 2–1246 of the State Government Article, on the number of for–profit cemeteries, nonreligious–nonprofit cemeteries, bona fide religious–nonprofit cemeteries, veterans’ cemeteries, and local government–owned cemeteries.

(2) Beginning December 1, 2008, the Director shall annually assess the rate of compliance with the registration, permit, and reporting requirements of this title by comparing the lists required under subsection (i)(1)(ii) and (iii) of this section with the most recent inventory of all known burial sites conducted under paragraph (1) of this subsection.

(3) Beginning with a report due on January 31, 2009, for fiscal year

2008, the Director shall report annually to the General Assembly, in accordance with § 2-1246 of the State Government Article, on the implementation of an action plan, if appropriate, to address any noncompliance issues identified by the assessment required under paragraph (2) of this subsection.

(4) The Director shall provide a copy of the annual report required under paragraph (3) of this subsection to each member of the Advisory Council.

(m) At the time of appointment of new members and before reappointment of existing members of the Advisory Council, the Director shall deliver to each member the paperwork necessary to disclose any interest or employment held by the member at the time of appointment as required by the Maryland Public Ethics Law.

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