

SENATE BILL 433

P1, J2, C2

(5lr1701)

ENROLLED BILL

— Finance and Education, Health, and Environmental Affairs/Health and Government Operations —

Introduced by **Senators Peters, Astle, Cassilly, Currie, DeGrange, Guzzone, Kasemeyer, King, Klausmeier, Manno, Mathias, McFadden, Montgomery, Ramirez, Raskin, Rosapepe, ~~and Waugh~~ Waugh, Benson, Feldman, Jennings, Hershey, Kelley, Middleton, Reilly, and Pugh**

Read and Examined by Proofreaders:

Proofreader.

Proofreader.

Sealed with the Great Seal and presented to the Governor, for his approval this _____ day of _____ at _____ o'clock, _____ M.

President.

CHAPTER _____

1 AN ACT concerning

2 **Funeral Establishments and Crematories – Unclaimed Cremains**
3 **of Veterans – Disposition**

4 FOR the purpose of requiring licensed funeral establishments or holders of permits for the
5 business of operating a crematory in the possession of unclaimed cremated human
6 remains for a certain period of time to provide certain identifying information to ~~the~~
7 ~~Maryland Department of Veterans Affairs~~ or certain veterans service organizations
8 for a certain determination; requiring ~~the Maryland Department of Veterans Affairs~~
9 ~~or~~ certain veterans service ~~organization~~ organizations to make a certain notification
10 of certain information within a certain period of time; authorizing a licensed funeral
11 establishment or permit holder to transfer certain cremains to ~~the Maryland~~
12 ~~Department of Veterans Affairs~~ or a veterans service organization for certain

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.

Italics indicate opposite chamber/conference committee amendments.



1 disposition under certain circumstances; establishing that a licensed funeral
2 establishment, holder of a permit for a crematory, or certain veterans service
3 organization that acts in good faith when taking certain actions is not civilly liable;
4 defining certain terms; and generally relating to the disposition of unclaimed
5 cremains of veterans.

6 BY repealing and reenacting, without amendments,
7 Article – Business Regulation
8 Section 5–101(a), (e), (f), (g), (i), (k), and (n)
9 Annotated Code of Maryland
10 (2010 Replacement Volume and 2014 Supplement)

11 BY adding to
12 Article – Business Regulation
13 Section 5–803
14 Annotated Code of Maryland
15 (2010 Replacement Volume and 2014 Supplement)

16 BY adding to
17 Article – Courts and Judicial Proceedings
18 Section 5–642
19 Annotated Code of Maryland
20 (2013 Replacement Volume and 2014 Supplement)

21 BY repealing and reenacting, without amendments,
22 Article – Health Occupations
23 Section 7–101(a), (d), (e), (h), (i), (k), (l), and (p)
24 Annotated Code of Maryland
25 (2014 Replacement Volume)

26 BY repealing and reenacting, with amendments,
27 Article – Health Occupations
28 Section 7–406
29 Annotated Code of Maryland
30 (2014 Replacement Volume)

31 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
32 That the Laws of Maryland read as follows:

33 **Article – Business Regulation**

34 5–101.

35 (a) In this title the following words have the meanings indicated.

36 (e) “Cremation” means the process of reducing human remains to bone fragments
37 through intense heat and evaporation, including any mechanical or thermal process.

1 (f) "Crematory" means a building, portion of a building, or structure that houses
2 the necessary appliances and facilities for cremation.

3 (g) "Director" means the Director of the Office of Cemetery Oversight.

4 (i) (1) "Engage in the operation of a crematory" means controlling or
5 managing a crematory.

6 (2) "Engage in the operation of a crematory" does not include:

7 (i) the practice of funeral direction or the practice of mortuary
8 science; or

9 (ii) 1. assistance in making decisions and filling out forms that
10 are not directly related to cremation;

11 2. obtaining vital statistics, signatures, and other
12 information necessary to complete a death certificate;

13 3. transportation of a body to the place of disposition; or

14 4. any other services regarding the disposition of a body that
15 are not directly related to cremation.

16 (k) (1) "Human remains" means:

17 (i) the body of a deceased person; or

18 (ii) a part of a body or limb that has been removed from a living
19 person.

20 (2) "Human remains" includes the body or part of a body or limb in any
21 state of decomposition.

22 (n) "Permit" means a permit issued by the Director to allow a partnership, limited
23 liability company, or corporation to operate a business through which a registrant may:

24 (1) engage in the operation of a cemetery or crematory; or

25 (2) provide burial goods.

26 **5-803.**

27 **(A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE MEANINGS**
28 **INDICATED.**

1 (2) “ELIGIBLE DEPENDENT” MEANS A VETERAN’S SPOUSE, A
2 VETERAN’S UNMARRIED CHILD UNDER THE AGE OF 21 YEARS, OR A VETERAN’S
3 UNMARRIED ADULT CHILD WHO BEFORE THE AGE OF 21 BECAME PERMANENTLY
4 INCAPABLE OF SELF-SUPPORT BECAUSE OF PHYSICAL OR MENTAL DISABILITY.

5 (3) (I) “IDENTIFYING INFORMATION” MEANS DATA REQUIRED BY
6 ~~THE MARYLAND DEPARTMENT OF VETERANS AFFAIRS~~ A VETERANS SERVICE
7 ORGANIZATION TO VERIFY THE ELIGIBILITY OF A VETERAN OR AN ELIGIBLE
8 DEPENDENT FOR BURIAL IN A NATIONAL OR STATE VETERANS CEMETERY.

9 (II) “IDENTIFYING INFORMATION” INCLUDES NAME, SERVICE
10 NUMBER, SOCIAL SECURITY NUMBER, DATE OF BIRTH, DATE OF DEATH, PLACE OF
11 BIRTH, AND COPY OF THE DEATH CERTIFICATE.

12 (4) “VETERAN” HAS THE MEANING STATED IN § 9-901 OF THE STATE
13 GOVERNMENT ARTICLE.

14 (5) “VETERANS SERVICE ORGANIZATION” MEANS AN ASSOCIATION
15 OR OTHER ENTITY ORGANIZED FOR THE BENEFIT OF VETERANS THAT HAS BEEN
16 RECOGNIZED BY THE U.S. DEPARTMENT OF VETERANS AFFAIRS OR CHARTERED BY
17 CONGRESS AND ANY EMPLOYEE OR REPRESENTATIVE OF THE ASSOCIATION OR
18 ENTITY.

19 (B) IF A LICENSED FUNERAL ESTABLISHMENT OR A CREMATORY IS IN
20 POSSESSION OF CREMATED HUMAN REMAINS THAT HAVE BEEN UNCLAIMED FOR 90
21 DAYS OR MORE, THE LICENSED FUNERAL ESTABLISHMENT OR HOLDER OF THE
22 PERMIT FOR THE BUSINESS OF OPERATING A CREMATORY SHALL PROVIDE
23 IDENTIFYING INFORMATION OF THE UNCLAIMED CREMAINS TO ~~THE MARYLAND~~
24 ~~DEPARTMENT OF VETERANS AFFAIRS OR~~ A VETERANS SERVICE ORGANIZATION IN
25 ORDER FOR THE ~~MARYLAND DEPARTMENT OF VETERANS AFFAIRS OR~~ VETERANS
26 SERVICE ORGANIZATION TO DETERMINE IF THE UNCLAIMED CREMAINS ARE THOSE
27 OF A VETERAN OR AN ELIGIBLE DEPENDENT.

28 (C) WITHIN 45 DAYS AFTER RECEIPT OF THE INFORMATION REQUIRED BY
29 SUBSECTION (B) OF THIS SECTION, THE ~~MARYLAND DEPARTMENT OF VETERANS~~
30 ~~AFFAIRS OR~~ VETERANS SERVICE ORGANIZATION SHALL NOTIFY THE LICENSED
31 FUNERAL ESTABLISHMENT OR PERMIT HOLDER:

32 (1) WHETHER THE CREMAINS ARE THOSE OF A VETERAN OR AN
33 ELIGIBLE DEPENDENT; AND

34 (2) IF SO, WHETHER THE VETERAN OR ELIGIBLE DEPENDENT IS
35 ELIGIBLE FOR BURIAL IN A VETERANS CEMETERY.

1 (D) IF THE UNCLAIMED CREMAINS ARE THOSE OF A VETERAN OR AN
2 ELIGIBLE DEPENDENT, THE LICENSED FUNERAL ESTABLISHMENT OR PERMIT
3 HOLDER MAY TRANSFER THE CREMAINS TO ~~THE MARYLAND DEPARTMENT OF~~
4 ~~VETERANS AFFAIRS OR~~ A VETERANS SERVICE ORGANIZATION FOR THE PURPOSE OF
5 DISPOSITION OF THE CREMAINS.

6 Article – Courts and Judicial Proceedings

7 5–642.

8 (A) A LICENSED FUNERAL ESTABLISHMENT OR HOLDER OF A PERMIT TO
9 ENGAGE IN THE BUSINESS OF A CREMATORY WHO ACTS IN GOOD FAITH IS NOT
10 CIVILLY LIABLE FOR TRANSFERRING THE UNCLAIMED CREMATED REMAINS OF A
11 VETERAN OR AN ELIGIBLE DEPENDENT OF A VETERAN TO ~~THE MARYLAND~~
12 ~~DEPARTMENT OF VETERANS AFFAIRS OR~~ A VETERANS SERVICE ORGANIZATION FOR
13 PURPOSES OF DISPOSITION AS PROVIDED IN § 5–803 OF THE BUSINESS
14 REGULATION ARTICLE AND § 7–406 OF THE HEALTH OCCUPATIONS ARTICLE.

15 (B) A VETERANS SERVICE ORGANIZATION THAT ACTS IN GOOD FAITH IS NOT
16 CIVILLY LIABLE FOR RECEIVING THE UNCLAIMED CREMATED REMAINS OF A
17 VETERAN OR AN ELIGIBLE DEPENDENT OF A VETERAN FOR PURPOSES OF
18 DISPOSITION AS PROVIDED IN § 5–803 OF THE BUSINESS REGULATION ARTICLE
19 AND § 7–406 OF THE HEALTH OCCUPATIONS ARTICLE.

20 Article – Health Occupations

21 7–101.

22 (a) In this title the following words have the meanings indicated.

23 (d) “Board” means the Maryland State Board of Morticians and Funeral
24 Directors.

25 (e) (1) “Business of operating a crematory” means controlling or managing a
26 crematory.

27 (2) “Business of operating a crematory” does not include:

28 (i) The practice of funeral direction or the practice of mortuary
29 science; or

30 (ii) 1. Assistance in making decisions and filling out forms that
31 are not directly related to cremation;

1 2. Obtaining vital statistics, signatures, and other
2 information necessary to complete a death certificate;

3 3. Transportation of a body to the place of disposition; or

4 4. Any other services regarding the disposition of a body that
5 are not directly related to cremation.

6 (h) “Cremation” means the process of reducing human remains to bone fragments
7 through intense heat and evaporation, including any mechanical or thermal process.

8 (i) “Crematory” means a building, portion of a building, or structure that houses
9 the necessary appliances and facilities for cremation.

10 (k) “Funeral establishment” means any building, structure, or premises from
11 which the business of practicing mortuary science is conducted.

12 (l) (1) “Human remains” means:

13 (i) The body of a deceased person; or

14 (ii) A part of a body or limb that has been removed from a living
15 person.

16 (2) “Human remains” includes the body or part of a body or limb in any
17 state of decomposition.

18 (p) “Licensed funeral establishment” means, unless the context requires
19 otherwise, a funeral establishment that is licensed by the Board.

20 7-406.

21 (A) A licensee shall maintain a complete file of a cremation that includes the
22 signature of the next of kin, person identifying the body, or person responsible for
23 disposition, time of death, and the date and time of cremation.

24 (B) (1) (I) **IN THIS SUBSECTION THE FOLLOWING WORDS HAVE THE**
25 **MEANINGS INDICATED.**

26 (II) **“ELIGIBLE DEPENDENT” MEANS A VETERAN’S SPOUSE, A**
27 **VETERAN’S UNMARRIED CHILD UNDER THE AGE OF 21 YEARS, OR A VETERAN’S**
28 **UNMARRIED ADULT CHILD WHO BEFORE THE AGE OF 21 BECAME PERMANENTLY**
29 **INCAPABLE OF SELF-SUPPORT BECAUSE OF PHYSICAL OR MENTAL DISABILITY.**

30 (III) 1. **“IDENTIFYING INFORMATION” MEANS DATA**
31 **REQUIRED BY ~~THE MARYLAND DEPARTMENT OF VETERANS AFFAIRS~~ A VETERANS**

1 SERVICE ORGANIZATION TO VERIFY THE ELIGIBILITY OF A VETERAN OR AN
2 ELIGIBLE DEPENDENT FOR BURIAL IN A NATIONAL OR STATE VETERANS CEMETERY.

3 2. "IDENTIFYING INFORMATION" INCLUDES NAME,
4 SERVICE NUMBER, SOCIAL SECURITY NUMBER, DATE OF BIRTH, DATE OF DEATH,
5 PLACE OF BIRTH, AND COPY OF THE DEATH CERTIFICATE.

6 (IV) "VETERAN" HAS THE MEANING STATED IN § 9-901 OF THE
7 STATE GOVERNMENT ARTICLE.

8 (V) "VETERANS SERVICE ORGANIZATION" MEANS AN
9 ASSOCIATION OR OTHER ENTITY ORGANIZED FOR THE BENEFIT OF VETERANS THAT
10 HAS BEEN RECOGNIZED BY THE U.S. DEPARTMENT OF VETERANS AFFAIRS OR
11 CHARTERED BY CONGRESS AND ANY EMPLOYEE OR REPRESENTATIVE OF THE
12 ASSOCIATION OR ENTITY.

13 (2) IF A LICENSED FUNERAL ESTABLISHMENT OR A CREMATORY IS IN
14 POSSESSION OF CREMATED HUMAN REMAINS THAT HAVE BEEN UNCLAIMED FOR 90
15 DAYS OR MORE, THE LICENSED FUNERAL ESTABLISHMENT OR HOLDER OF THE
16 PERMIT FOR THE BUSINESS OF OPERATING A CREMATORY SHALL PROVIDE
17 IDENTIFYING INFORMATION OF THE UNCLAIMED CREMAINS TO ~~THE MARYLAND~~
18 ~~DEPARTMENT OF VETERANS AFFAIRS OR~~ A VETERANS SERVICE ORGANIZATION IN
19 ORDER FOR THE ~~MARYLAND DEPARTMENT OF VETERANS AFFAIRS OR~~ VETERANS
20 SERVICE ORGANIZATION TO DETERMINE IF THE UNCLAIMED CREMAINS ARE THOSE
21 OF A VETERAN OR AN ELIGIBLE DEPENDENT.

22 (3) WITHIN 45 DAYS AFTER RECEIPT OF THE INFORMATION
23 REQUIRED UNDER PARAGRAPH (2) OF THIS SUBSECTION, THE ~~MARYLAND~~
24 ~~DEPARTMENT OF VETERANS AFFAIRS OR~~ VETERANS SERVICE ORGANIZATION
25 SHALL NOTIFY THE LICENSED FUNERAL ESTABLISHMENT OR PERMIT HOLDER:

26 (I) WHETHER THE CREMAINS ARE THOSE OF A VETERAN OR AN
27 ELIGIBLE DEPENDENT; AND

28 (II) IF SO, WHETHER THE VETERAN OR ELIGIBLE DEPENDENT IS
29 ELIGIBLE FOR BURIAL IN A VETERANS CEMETERY.

30 (4) IF THE UNCLAIMED CREMAINS ARE THOSE OF A VETERAN OR AN
31 ELIGIBLE DEPENDENT, THE LICENSED FUNERAL ESTABLISHMENT OR PERMIT
32 HOLDER MAY TRANSFER THE CREMAINS TO ~~THE MARYLAND DEPARTMENT OF~~
33 ~~VETERANS AFFAIRS OR~~ A VETERANS SERVICE ORGANIZATION FOR THE PURPOSE OF
34 DISPOSITION OF THE CREMAINS.

1 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
2 October 1, 2015.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.