SENATE BILL 433

P1, J2, C2 5lr1701

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**

Introduced and read first time: February 6, 2015
Assigned to: Finance and Education, Health, and Environmental Affairs

Committee Report: Favorable with amendments
Senate action: Adopted
Read second time: March 13, 2015

CHAPTER _____

AN ACT concerning

Funeral Establishments and Crematories – Unclaimed Cremains of Veterans – Disposition

FOR the purpose of requiring licensed funeral establishments or holders of permits for the business of operating a crematory in the possession of unclaimed cremated human remains for a certain period of time to provide certain identifying information to the Maryland Department of Veterans Affairs or certain veterans service organizations for a certain determination; requiring the Maryland Department of Veterans Affairs or veterans service organization to make a certain notification of certain information within a certain period of time; authorizing a licensed funeral establishment or permit holder to transfer certain cremains to the Maryland Department of Veterans Affairs or a veterans service organization for certain disposition under certain circumstances; establishing that a licensed funeral establishment, holder of a permit for a crematory, or certain veterans service organization that acts in good faith when taking certain actions is not civilly liable; defining certain terms; and generally relating to the disposition of unclaimed cremains of veterans.

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

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.

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

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

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

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

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

Article – Business Regulation

5–101.

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

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

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

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

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

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

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

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

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

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

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

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

(i) the body of a deceased person; or

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

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

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

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

(2) provide burial goods.

5–803.

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

(2) "ELIGIBLE DEPENDENT" MEANS A VETERAN'S SPOUSE, A VETERAN'S UNMARRIED CHILD UNDER THE AGE OF 21 YEARS, OR A VETERAN'S UNMARRIED ADULT CHILD WHO BEFORE THE AGE OF 21 BECAME PERMANENTLY INCAPABLE OF SELF–SUPPORT BECAUSE OF PHYSICAL OR MENTAL DISABILITY.

(3) (I) "IDENTIFYING INFORMATION" MEANS DATA REQUIRED BY THE MARYLAND DEPARTMENT OF VETERANS AFFAIRS TO VERIFY THE ELIGIBILITY OF A VETERAN OR AN ELIGIBLE DEPENDENT FOR BURIAL IN A NATIONAL OR STATE VETERANS CEMETERY.

(II) "IDENTIFYING INFORMATION" INCLUDES NAME, SERVICE NUMBER, SOCIAL SECURITY NUMBER, DATE OF BIRTH, DATE OF DEATH, PLACE OF BIRTH, AND COPY OF THE DEATH CERTIFICATE.

(4) "VETERAN" HAS THE MEANING STATED IN § 9–901 OF THE STATE GOVERNMENT ARTICLE.

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

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

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

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

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

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

Article – Courts and Judicial Proceedings

5–642.

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

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

Article – Health Occupations

7–101.

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

(d) "Board" means the Maryland State Board of Morticians and Funeral Directors.

(e) (1) "Business of operating a crematory" means controlling or managing a crematory.

(2) "Business of operating a crematory" does not include:

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

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

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

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

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

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

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

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

(l) (1) "Human remains" means:

(i) The body of a deceased person; or

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

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

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

7–406.

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

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

(II) "ELIGIBLE DEPENDENT" MEANS A VETERAN'S SPOUSE, A VETERAN'S UNMARRIED CHILD UNDER THE AGE OF 21 YEARS, OR A VETERAN'S UNMARRIED ADULT CHILD WHO BEFORE THE AGE OF 21 BECAME PERMANENTLY INCAPABLE OF SELF–SUPPORT BECAUSE OF PHYSICAL OR MENTAL DISABILITY.

(III) 1. "IDENTIFYING INFORMATION" MEANS DATA REQUIRED BY THE MARYLAND DEPARTMENT OF VETERANS AFFAIRS TO VERIFY THE ELIGIBILITY OF A VETERAN OR AN ELIGIBLE DEPENDENT FOR BURIAL IN A NATIONAL OR STATE VETERANS CEMETERY.

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

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

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

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

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

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

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

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

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