

HOUSE BILL 517

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1998 Regular Session
8r1273
CF 8r1275

By: **Delegates Krysiak, Arnick, DeCarlo, Dypski, Hammen, Minnick, and Goldwater**

Introduced and read first time: February 5, 1998

Assigned to: Economic Matters

A BILL ENTITLED

1 AN ACT concerning

2 **Cemeteries - Registration**

3 FOR the purpose of exempting certain nonprofit cemeteries from the registration and
4 permitting requirements of the Maryland Cemetery Act; and defining a certain
5 term.

6 BY repealing and reenacting, with amendments,
7 Article - Business Regulation
8 Section 5-101, 5-102, 5-405, and 5-701
9 Annotated Code of Maryland
10 (1992 Volume and 1997 Supplement)

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

13 **Article - Business Regulation**

14 5-101.

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

16 (b) (1) "Burial goods" means goods that are used in connection with burial.

17 (2) "Burial goods" includes:

18 (i) a casket;

19 (ii) a grave liner;

20 (iii) a memorial;

21 (iv) a monument;

22 (v) a scroll;

1 (vi) an urn;

2 (vii) a vase; and

3 (viii) a vault.

4 (c) "Burial goods business" means a business that provides burial goods.

5 (D) (1) "BURIAL SPACE" MEANS LAND OR SPACE IN A STRUCTURE USED OR
6 TO BE USED FOR INTERMENT.

7 (2) "BURIAL SPACE" INCLUDES A BURIAL RIGHT IN THE LAND OR SPACE.

8 [(d)] (E) (1) "Cemetery" means land used or to be used for burial.

9 (2) "Cemetery" includes a structure used or to be used for burial.

10 [(e)] (F) "Director" means the Director of the Office of Cemetery Oversight.

11 [(f)] (G) "Engage in the operation of a cemetery" means owning, controlling, or
12 managing a cemetery, including performing activities necessary for:

13 (1) the establishment or improvement of a cemetery;

14 (2) interment; and

15 (3) the care, preservation, or embellishment of a cemetery.

16 [(g)] (H) "Interment" means all final disposition of human remains, including:

17 (1) earth burial;

18 (2) mausoleum entombment; and

19 (3) niche or columbarium interment.

20 [(h)] (I) "Office" means the Office of Cemetery Oversight.

21 [(i)] (J) "Permit" means a permit issued by the Director to allow a
22 partnership, limited liability company, or corporation to operate a business through
23 which a registrant may engage in the operation of a cemetery or provide burial goods.

24 [(j)] (K) (1) "Preneed goods" means burial goods that are sold before the
25 buyer's death.

26 (2) "Preneed goods" does not include burial space.

27 [(k)] (L) "Provide burial goods" means:

28 (1) to sell, erect, or inscribe burial monuments; AND

29 (2) to sell burial goods.

1 [(l)] (M) "Registration" means a registration issued by the Director
2 authorizing an individual to operate a cemetery or to provide burial goods.

3 [(m)] (N) "Registered cemeterian" means an individual registered to operate a
4 cemetery as a sole proprietor or on behalf of a permit holder.

5 [(n)] (O) "Registered seller" means an individual registered to provide burial
6 goods as a sole proprietor or on behalf of a permit holder.

7 5-102.

8 (a) The registration and permitting provisions of this title do not apply to a
9 person that owns and operates a bona fide [religious,] nonprofit cemetery in this
10 State and does not sell preneed goods EXCEPT THROUGH PRENEED BURIAL
11 CONTRACTS THAT ARE EXEMPT FROM THE TRUST REQUIREMENTS UNDER § 5-705(C)
12 OF THIS TITLE.

13 (b) This title does not apply to:

14 (1) the operation of a funeral establishment, including the sale of burial
15 goods in the ordinary course of the funeral establishment's business;

16 (2) a licensed funeral director acting within the scope of the funeral
17 director's license; or

18 (3) a mortician acting within the scope of the mortician's license.

19 5-405.

20 Except for a cemetery in which no burials have taken place within the previous
21 5 years, a bona fide [religious,] nonprofit cemetery that is exempt under § 5-102 of
22 this title from the registration and permitting requirements of this title shall file with
23 the Office, once every 2 years, a statement that includes:

24 (1) the name and address of the cemetery;

25 (2) the name and address of the [religious] organization that owns and
26 operates the cemetery; and

27 (3) the name and address of the individual who is responsible for the
28 oversight of the cemetery.

29 5-701.

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

31 [(b)] (1) "Burial space" means land or space in a structure used or to be used
32 for burial.

33 (2) "Burial space" includes a burial right in the land or space.]

1 [(c)] (B) "Buyer" means a person who buys preneed goods or preneed services.

2 [(d)] (C) "Preneed burial contract" means a written instrument under which
3 preneed goods or preneed services are to be sold and delivered or performed.

4 [(e)] (D) (1) "Preneed services" means services that are sold:

5 (i) before the buyer's death; and

6 (ii) in connection with burial.

7 (2) "Preneed services" includes opening and closing a grave.

8 [(f)] (E) "Seller" means a registered cemeterian, registered seller, or any other
9 person who sells preneed goods or preneed services.

10 [(g)] (F) "Specific funds" means money that is identified to a specific preneed
11 burial contract.

12 [(h)] (G) "Trust account" means a preneed trust account.

13 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
14 October 1, 1998.