

Department of Legislative Services
 Maryland General Assembly
 2002 Session

FISCAL NOTE

House Bill 326 (Delegate Cadden, *et al.*)
 Economic Matters

Finance

Business Regulation and Health Occupations - Regulation of Crematories

This bill provides for the regulation of crematories by either the State Board of Morticians or the Office of Cemetery Oversight.

Fiscal Summary

State Effect: Special fund revenues could increase by \$7,200 in FY 2003 from registration fees. Future years reflect a biennial renewal cycle and a constant number of registrants. Implementation could be handled with existing resources.

(in dollars)	FY 2003	FY 2004	FY 2005	FY 2006	FY 2007
SF Revenue	\$7,200	\$0	\$7,200	\$0	\$7,200
Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	\$7,200	\$0	\$7,200	\$0	\$7,200

Note:() = decrease; GF = general funds; FF = federal funds; SF = special funds; - = indeterminate effect

Local Effect: The civil and criminal penalty provisions of this bill are not expected to significantly affect local finances or operations.

Small Business Effect: Minimal.

Analysis

Bill Summary: This bill sets forth requirements for the operation of crematories and requires that crematories be registered with the Office of Cemetery Oversight or the State Board of Morticians. If the owner of the operation, or the operation, is not licensed by the State Board of Morticians, registration is required with the Office of Cemetery

Oversight. The Director of the Office of Cemetery Oversight may not assess crematories with a per-occurrence application fee.

The Director of the Office of Cemetery Oversight is required to publish a consumer information pamphlet that describes the rights of consumers in the purchase of crematory services, and any other information that the director considers reasonably necessary to aid consumers. A crematory registered with the Office of Cemetery Oversight or the Board of Morticians is subject to inspections, and may be charged a fee for such inspections.

If a crematory registered with the office is in violation of any provision set forth in this bill, the director may refer the matter to: (1) the Attorney General for civil enforcement; or (2) the appropriate State's Attorney for criminal prosecution. Civil relief may include an injunction and/or the imposition of a civil penalty not exceeding \$5,000. Civil penalties assessed by the director are to be paid into the State general fund.

If a crematory is registered with the Board of Morticians, the operator is subject to discipline by the Board of Morticians, including revocation or suspension of licensure and a restraining order to prohibit the licensee from engaging in the operation of the crematory. If a crematory licensee is charged with a violation that could result in suspension or revocation of the license, the board may petition a court to appoint a receiver or trustee to take charge of the assets and operate the business of the person in the event that the license is suspended or revoked, and take other actions as are appropriate to protect the public interest. Any civil penalty imposed by the board may not exceed \$5,000 for each violation or \$500 per day for each day a violation continues past the time set by the board for its correction. Civil penalties assessed by the board are to be paid into the State general fund.

Any person who violates any provision regarding the operation of a crematory set forth in this bill is guilty of a misdemeanor and on conviction is subject to a fine of up to \$5,000 and/or imprisonment for up to one year.

Current Law: The Office of Cemetery Oversight currently publishes a consumer information pamphlet that describes the rights of consumers in the purchase of funeral and cemetery goods and services. There is no statutory language requiring the inclusion of information regarding crematories or crematory services.

A licensee under the Board of Morticians must maintain a complete file of a cremation that is defined as: 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.

State Fiscal Effect: Special fund revenues could increase by \$7,200 in fiscal 2003 and in subsequent odd-numbered years. This estimate assumes the registration of 18 crematories with the Board of Morticians and six crematories with the Office of Cemetery Oversight, at a fee of \$300 each, and a constant number of registrants in out-years. Any increase in special fund revenues and expenditures due to the performance of crematory inspections is expected to be minimal. The civil and criminal penalty provisions of this bill are not expected to significantly affect governmental revenues or expenditures, and any additional requirements set forth by the bill could be handled within existing budgeted resources.

Additional Information

Prior Introductions: In 2001, HB 906 a similar bill, was reported favorably by the House Economic Matters Committee, passed by the House, and received an unfavorable report in the Senate Finance Committee.

Cross File: SB 143 (Senator Astle) – Finance.

Information Source(s): Office of Administrative Hearings; Department of Health and Mental Hygiene; Department of Labor, Licensing, and Regulation; Department of Legislative Services

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ncs/jr

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