
By: **Delegates Harrison, Conroy, Jameson, Kirk, Love, McHale, Minnick,
and Moe**

Introduced and read first time: February 18, 2004

Assigned to: Rules and Executive Nominations

A BILL ENTITLED

1 AN ACT concerning

2 **Business Regulation - Corporations and Limited Liability Companies -**
3 **License to Operate a Funeral Establishment**

4 FOR the purpose of authorizing the State Board of Morticians to issue a corporate
5 license to operate a funeral establishment to a corporation owned or controlled
6 by a registered cemeterian or permit holder under certain circumstances;
7 authorizing the Maryland State Board of Morticians to issue a license to operate
8 a mortuary science business and a funeral establishment license to certain
9 corporations and limited liability companies; repealing certain restrictions on
10 the issuance and renewal of certain licenses; altering and establishing certain
11 requirements for the renewal of a license to operate a mortuary science business
12 to a corporation or limited liability company; requiring that certain information
13 be included in an application made by a corporation or limited liability company
14 for the issuance or renewal of a license to operate a mortuary science business;
15 establishing a certain limitation on the authority of a limited liability company
16 to operate a mortuary science business; requiring that if a limited liability
17 company is sold, declares bankruptcy, or ceases to operate, a certain written
18 notice must be submitted to certain persons; requiring an application for a
19 funeral establishment license submitted by a corporation or limited liability
20 company to be signed by certain persons; requiring the Board to issue a license
21 to a funeral establishment that is owned or operated by at least one licensed
22 mortician or one licensed funeral director, a holder of a surviving spouse or
23 corporation license, or limited liability company; and generally relating to the
24 issuance of corporation licenses and funeral establishment licenses to
25 corporations and limited liability companies.

26 BY adding to
27 Article - Business Regulation
28 Section 5-803
29 Annotated Code of Maryland
30 (1998 Replacement Volume and 2003 Supplement)

31 BY repealing and reenacting, with amendments,
32 Article - Health Occupations

1 Section 7-309 and 7-310
2 Annotated Code of Maryland
3 (2000 Replacement Volume and 2003 Supplement)

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

6 **Article - Business Regulation**

7 5-803.

8 (A) A CORPORATION THAT IS OWNED OR CONTROLLED BY A REGISTERED
9 CEMETERIAN OR PERMIT HOLDER MAY BE ISSUED A CORPORATE LICENSE TO
10 OPERATE A FUNERAL ESTABLISHMENT UNDER § 7-310 OF THE HEALTH
11 OCCUPATIONS ARTICLE IF:

12 (1) THE REGISTERED CEMETERIAN OR PERMIT HOLDER HAS HAD AN
13 AVERAGE OF FEWER THAN 150 BURIALS OR ENTOMBMENTS PER YEAR CONDUCTED
14 ON ITS PREMISES FOR THE LAST 3 YEARS;

15 (2) THE FUNERAL ESTABLISHMENT IS LOCATED ON THE CEMETERY
16 PREMISES OR ON PROPERTY IMMEDIATELY ADJOINING THE CEMETERY PREMISES;
17 AND

18 (3) THE REGISTERED CEMETERIAN OR PERMIT HOLDER HAS A
19 PERPETUAL CARE TRUST FUND IN COMPLIANCE WITH SUBTITLE 6 OF THIS TITLE.

20 (B) THE REGISTERED CEMETERIAN OR PERMIT HOLDER SHALL SUBMIT TO
21 THE DIRECTOR ANY EVIDENCE REASONABLY REQUIRED BY THE DIRECTOR TO
22 ESTABLISH THAT THE REGISTERED CEMETERIAN OR PERMIT HOLDER MEETS THE
23 REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION.

24 (C) IF THE REGISTERED CEMETERIAN OR PERMIT HOLDER MEETS THE
25 REQUIREMENTS OF SUBSECTION (A) OF THIS SECTION, THE DIRECTOR SHALL
26 CERTIFY TO THE STATE BOARD OF MORTICIANS THAT THE REGISTERED
27 CEMETERIAN OR PERMIT HOLDER MEETS THE REQUIREMENTS OF THIS SECTION.

28 (D) IN ADDITION TO THE REQUIREMENTS OF THIS SECTION, THE REGISTERED
29 CEMETERIAN OR PERMIT HOLDER THAT IS ISSUED A CORPORATE LICENSE TO
30 OPERATE A FUNERAL ESTABLISHMENT SHALL COMPLY WITH THE APPLICABLE
31 PROVISIONS OF §§ 7-309 AND 7-310 OF THE HEALTH OCCUPATIONS ARTICLE.

32 **Article - Health Occupations**

33 7-309.

34 (a) [Except as otherwise provided by law, a corporation may not operate a
35 mortuary science business and the] THE Board may [not] issue a license to [or] AND

1 list [any] A corporation OR LIMITED LIABILITY COMPANY as licensed to operate a
2 mortuary science business.

3 (b) The Board may renew [only] the license of a corporation OR LIMITED
4 LIABILITY COMPANY that:

5 (1) [On June 1, 1945, held] HOLDS a license issued by this State;

6 (2) Has [been renewed] continuously RENEWED THE LICENSE since
7 [that] THE date THE LICENSE WAS ISSUED;

8 (3) Submits an application on a form required by the Board; and

9 (4) Pays a fee set by the Board.

10 (c) Each application for ISSUANCE OR renewal OF A LICENSE made by a
11 corporation OR LIMITED LIABILITY COMPANY shall state the name and address of
12 each officer and director of the corporation OR EACH MANAGING MEMBER OF THE
13 LIMITED LIABILITY COMPANY.

14 (d) While a corporation OR LIMITED LIABILITY COMPANY license is effective, it
15 authorizes a corporation OR LIMITED LIABILITY COMPANY to operate a mortuary
16 science business only if any practice of mortuary science that is conducted for the
17 corporation OR LIMITED LIABILITY COMPANY is practiced by a licensed individual.

18 (e) A corporation may not operate a branch funeral establishment unless the
19 branch funeral establishment was in operation on or before October 1, 1964.

20 (f) If a corporation OR LIMITED LIABILITY COMPANY is sold, declares
21 bankruptcy, or ceases to operate, written notice must be submitted to:

22 (1) The Board, within 2 weeks of the occurrence, detailing the changes
23 and the arrangements for carrying out the pre-need contracts and disbursement of
24 the money held in escrow; and

25 (2) The holders of pre-need contracts advising them of their options
26 under Maryland law.

27 7-310.

28 (a) (1) A funeral establishment shall be licensed by the Board before the
29 establishment may be used for the preparation of the remains, viewing, and
30 conducting of services.

31 (2) The licensee may be restricted to operations as determined by the
32 Board.

33 (b) (1) To apply for a funeral establishment license, an applicant shall:

34 (i) Submit an application to the Board on the form that the Board
35 requires; and

1 (ii) Pay to the Board an application fee set by the Board.

2 (2) An application for a funeral establishment license shall be signed
3 [by]:

4 (I) BY a licensed individual who is not an apprentice but is the
5 owner or co-owner of the establishment to be licensed; OR

6 (II) IF THE APPLICANT IS A CORPORATION, BY AN OFFICER OR
7 DIRECTOR OF THE CORPORATION AND THE LICENSED INDIVIDUAL WHO IS NOT AN
8 APPRENTICE BUT WILL BE RESPONSIBLE FOR THE PRACTICE OF ANY MORTUARY
9 SCIENCE THAT IS CONDUCTED FOR THE CORPORATION; OR

10 (III) IF THE APPLICANT IS A LIMITED LIABILITY COMPANY, BY EACH
11 MANAGING MEMBER OF THE LIMITED LIABILITY COMPANY AND THE LICENSED
12 INDIVIDUAL WHO IS NOT AN APPRENTICE BUT WILL BE RESPONSIBLE FOR THE
13 PRACTICE OF ANY MORTUARY SCIENCE THAT IS CONDUCTED FOR THE LIMITED
14 LIABILITY COMPANY.

15 (c) The Board shall issue a funeral establishment license to a funeral
16 establishment that:

17 (1) Has complied with all applicable State and local laws;

18 (2) Will be owned [and] OR operated in accordance with this title by at
19 least one licensed mortician or one licensed funeral director, [or] a holder of a
20 surviving spouse or corporation license, OR LIMITED LIABILITY COMPANY; and

21 (3) Will be held responsible for any and all activities performed on the
22 premises.

23 (d) Signs and advertisements of a funeral establishment shall display the
24 name that appears on the establishment license.

25 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take
26 effect October 1, 2004.