

Department of Legislative Services  
Maryland General Assembly  
2005 Session

FISCAL AND POLICY NOTE

House Bill 1078 (Delegate D. Davis, *et al.*)  
Health and Government Operations and Economic Matters

---

**Business Regulation - Corporations - License to Operate Funeral Establishment**

---

This bill prohibits a corporation that is owned or controlled by a registered cemetarian or permit holder from holding a corporation license to operate a funeral establishment (any building, structure, or premises from which the business of funeral directing or embalming is conducted). However, this prohibition does not apply to a corporation that: (1) on June 1, 1945, held a corporation license, issued by the State, to operate a mortuary science business; and (2) continuously renewed the corporation license since the date the license was issued.

---

**Fiscal Summary**

**State Effect:** None. The bill would not materially affect State operations or finances.

**Local Effect:** None.

**Small Business Effect:** Minimal.

---

**Analysis**

**Current Law:** Except as otherwise provided, a corporation may not operate a mortuary science business and the State Board of Morticians may not issue a license to or list any corporation as licensed to operate a mortuary science business. The board may renew only the license of a corporation that: (1) on June 1, 1945, held a license issued by the State; (2) has been renewed continuously since that date; (3) submits an application on the board-required form; and (4) pays the fee set by the board.

A funeral establishment must be licensed by the board before the establishment may be used for the preparation of the remains of an individual, viewing, and conducting services.

Funeral establishments must be owned and operated by a licensed mortician or funeral director or a holder of a surviving spouse or corporation license.

**Background:** The 58 corporations currently licensed by the State Board of Morticians have continuously held a license since June 1, 1945.

In every state, corporations may own a funeral establishment if a licensed mortician operates the facility. However, in Maryland, the number of corporations that can own an establishment is restricted. Corporation licenses or charters were initially issued to allow licensees to reduce their tax and liability burdens. Over time, the board found that some corporations were allowing nonlicensed individuals to perform services such as embalming. The board found it difficult to take disciplinary action against corporate owners and thus sought to restrict corporation licenses. Legislation passed in 1937 allowed the board to stop issuing new corporation licenses but grandfathered in existing licensees. The board allowed for a temporary exception to this restriction during World War II by allowing corporations to be formed by the immediate families of licensees in order to carry on the family business while those licensees served in the armed forces.

Corporation licenses are renewed biennially at a fee of \$875. Because the number of corporation licenses is limited, any corporation that intends to enter the mortuary science business in Maryland must purchase an existing corporation and its license.

According to the Office of Cemetery Oversight, there are 70 registered cemeteries in the State. At least four registered cemeteries are affiliated with a funeral establishment.

Chapter 675 of 1997 created an Office of Cemetery Oversight to regulate the death care industry in the State through specified registration requirements, related rules, biennial permit fees, and hearing procedures. One objective for the establishment of the office was to license and monitor individuals, partnerships, corporations, and limited liability companies operating cemeteries or providing burial goods and services to consumers in Maryland.

---

### **Additional Information**

**Prior Introductions:** None.

**Cross File:** None.

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

**Fiscal Note History:** First Reader - March 15, 2005  
ncs/ljm

---

Analysis by: Michael Sanelli

Direct Inquiries to:  
(410) 946-5510  
(301) 970-5510