

Department of Legislative Services
 Maryland General Assembly
 2005 Session

FISCAL AND POLICY NOTE

House Bill 19 (Delegate Benson)
 Health and Government Operations

Health Occupations - Morticians - Licensing - Corporations

This bill allows a corporation that has not continuously held a license to operate a mortuary science business in Maryland since June 1, 1945 to apply for a license to operate in the State. A corporate license application must be signed by an officer or director of the corporation and the licensed individual who will be responsible for the practice of mortuary science conducted for the corporation. Further, the bill modifies the requirement that the State Board of Morticians must issue a license to operate a funeral establishment to an establishment that will be “owned and operated” by at least one licensed mortician or licensed funeral director, or a holder of a surviving spouse or corporation license. Instead, the establishment may be “owned or operated” by the above mentioned individuals.

Fiscal Summary

State Effect: Special fund revenues to the board could increase by \$4,400 in FY 2006 to reflect an estimated five additional corporations applying for a license to operate a mortuary science business. Future years reflect biennial fee renewal. No effect on special fund expenditures.

(in dollars)	FY 2006	FY 2007	FY 2008	FY 2009	FY 2010
SF Revenue	\$4,400	\$0	\$4,400	\$0	\$4,400
SF Expenditure	\$0	\$0	\$0	\$0	\$0
Net Effect	\$4,400	\$0	\$4,400	\$0	\$4,400

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

Local Effect: None.

Small Business Effect: None.

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 board have continuously held a license since June 1, 1945. The board expects five additional businesses to apply for licensure to operate a mortuary science business as a result of this bill.

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.

State Fiscal Effect: Special fund revenues for the State Board of Morticians could increase by \$4,375 in fiscal 2006, assuming that five corporations apply for a license to

operate a mortuary science business and pay the \$875 fee. Future years reflect biennial renewal and an \$875 corporation license renewal fee. No effect on special fund expenditures.

Additional Information

Prior Introductions: HB 795 of 2004, which would have created a Task Force to Study Funeral Establishment Licensing, passed in the House but received an unfavorable report by the Senate Education, Health, and Environmental Affairs Committee. HB 1341 of 2004, which would have allowed limited liability companies and additional corporations to become licensed mortuary science businesses in the State, received an unfavorable report by the House Economic Matters Committee. Bills similar to HB 1341 were introduced in the 2002 and 2003 sessions. HB 1113 of 2002 received an unfavorable report by the House Economic Matters Committee; HB 956 of 2003 was introduced, but no further action was taken.

Cross File: SB 340 (Senator Brochin, *et al.*) – Education, Health, and Environmental Affairs.

Information Source(s): Department of Health and Mental Hygiene; *Sunset Review: Evaluation of the State Board of Morticians*, October 2000, Department of Legislative Services

Fiscal Note History: First Reader - February 2, 2005
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