

SENATE BILL 463

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8lr1083
CF HB 487

By: **Senator Conway (Chair, Education, Health, and Environmental Affairs Committee)**

Introduced and read first time: January 31, 2008

Assigned to: Education, Health, and Environmental Affairs

Committee Report: Favorable

Senate action: Adopted

Read second time: March 19, 2008

CHAPTER _____

1 AN ACT concerning

2 **State Board of Morticians and Funeral Directors – Sunset Extension and**
3 **Program Evaluation**

4 FOR the purpose of continuing the State Board of Morticians and Funeral Directors in
5 accordance with the provisions of the Maryland Program Evaluation Act (sunset
6 law) by extending to a certain date the termination provisions relating to the
7 statutory and regulatory authority of the Board; requiring that an evaluation of
8 the Board and the statutes and regulations that relate to the Board be
9 performed on or before a certain date; requiring that pre-need contracts contain
10 a certain disclosure statement; requiring the Board to submit certain reports on
11 or before certain dates; and generally relating to the State Board of Morticians
12 and Funeral Directors.

13 BY repealing and reenacting, with amendments,
14 Article – Health Occupations
15 Section 7–316(a)(29), 7–405(c) and (h), and 7–602
16 Annotated Code of Maryland
17 (2005 Replacement Volume and 2007 Supplement)

18 BY repealing and reenacting, without amendments,
19 Article – Health Occupations
20 Section 7–405(a) and (b)
21 Annotated Code of Maryland
22 (2005 Replacement Volume and 2007 Supplement)

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike-out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 BY repealing and reenacting, without amendments,
2 Article – State Government
3 Section 8–403(a)
4 Annotated Code of Maryland
5 (2004 Replacement Volume and 2007 Supplement)

6 BY repealing and reenacting, with amendments,
7 Article – State Government
8 Section 8–403(b)(40)
9 Annotated Code of Maryland
10 (2004 Replacement Volume and 2007 Supplement)

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

13 **Article – Health Occupations**

14 7–316.

15 (a) Subject to the hearing provisions of § 7–319 of this subtitle and except as
16 to a funeral establishment license, the Board may deny a license to any applicant,
17 reprimand any licensee, place any licensee on probation, or suspend or revoke any
18 license if the applicant or licensee:

19 (29) Fails to allow an inspection under [§ 7–205(8)] § **7–205(A)(8)** of
20 this title;

21 7–405.

22 (a) (1) In this section the following words have the meanings indicated.

23 (2) “Beneficiary” means a person for whose benefit a pre–need contract
24 is purchased and who will receive the merchandise or services offered under the
25 contract.

26 (3) “Buyer” means a person that purchases a pre–need contract.

27 (4) “Seller” means a person who agrees to provide services or
28 merchandise, directly or indirectly, under a pre–need contract.

29 (5) “Trustee” means a person that has responsibility for making
30 pre–need arrangements in a manner that entitles the beneficiary to be eligible for
31 benefits that restrict assets.

32 (b) (1) Only a licensed mortician, a licensed funeral director, or a holder of
33 a surviving spouse license may offer or agree, directly or indirectly, to provide services
34 or merchandise under a pre–need contract.

1 (2) Notwithstanding the provisions of paragraph (1) of this subsection,
2 a licensed mortician or a licensed funeral director who is employed by a funeral
3 establishment may execute pre-need contracts on behalf of the funeral establishment
4 with which the mortician or funeral director is employed.

5 (3) Any funeral establishment on whose behalf pre-need contracts are
6 executed under this subsection must comply with the requirements of this section.

7 (c) (1) A pre-need contract shall contain:

8 (i) The name of each party to the contract and, if the
9 beneficiary is an individual other than the buyer, the name of the beneficiary of the
10 contract;

11 (ii) A description of any service or merchandise to be provided
12 under the pre-need contract;

13 **(III) A DISCLOSURE STATEMENT THAT CLEARLY:**

14 **1. STATES THAT ALL FUNERAL COSTS MAY NOT BE**
15 **COVERED UNDER THE PRE-NEED CONTRACT; AND**

16 **2. LISTS ALL FUNERAL GOODS AND SERVICES THAT**
17 **ARE REASONABLY EXPECTED TO BE REQUIRED AT THE TIME OF NEED, BUT ARE**
18 **NOT INCLUDED IN THE CONTRACT;**

19 ~~[(iii)]~~ **(IV)** The total price of the services and merchandise agreed
20 on; and

21 ~~[(iv)]~~ **(V)** The method of payment.

22 (2) A pre-need contract shall be executed in duplicate and be signed
23 by each party.

24 (3) The seller shall give one of the duplicate originals of the pre-need
25 contract to the buyer.

26 (h) A seller of a pre-need contract shall disclose to the consumer[:

27 (1) All goods and services that are reasonably expected to be required
28 at the time of need, but are not included in the pre-need contract; and

29 (2) The] **THE** buyer's cancellation and refund rights under subsection
30 (d) of this section.

31 7-602.

1 Subject to the evaluation and reestablishment provisions of the Program
2 Evaluation Act, this title and all rules and regulations adopted under this title shall
3 terminate and be of no effect after July 1, [2008] **2018**.

4 **Article – State Government**

5 8–403.

6 (a) On or before December 15 of the 2nd year before the evaluation date of a
7 governmental activity or unit, the Legislative Policy Committee, based on a
8 preliminary evaluation, may waive as unnecessary the evaluation required under this
9 section.

10 (b) Except as otherwise provided in subsection (a) of this section, on or before
11 the evaluation date for the following governmental activities or units, an evaluation
12 shall be made of the following governmental activities or units and the statutes and
13 regulations that relate to the governmental activities or units:

14 (40) **Morticians AND FUNERAL DIRECTORS**, State Board of (§ 7–201
15 of the Health Occupations Article: July 1, [2007] **2017**);

16 SECTION 2. AND BE IT FURTHER ENACTED, That, on or before December 1,
17 2008, the Board of Morticians and Funeral Directors shall submit a report to the
18 Senate Education, Health, and Environmental Affairs Committee and the House
19 Health and Government Operations Committee, in accordance with § 2–1246 of the
20 State Government Article, regarding:

21 (1) any observed changes in licensure patterns;

22 (2) a plan to reduce the Board's fund balance to 25% of biennial
23 operating costs; and

24 (3) the status of nonstatutory recommendations contained in the
25 Sunset Review: Evaluation of the State Board of Morticians and Funeral Directors
26 conducted by the Department of Legislative Services.

27 SECTION 3. AND BE IT FURTHER ENACTED, That:

28 (1) The Board of Morticians and Funeral Directors shall notify the
29 Senate, Education, Health, and Environmental Affairs Committee and the House
30 Health and Government Operations Committee of the resolution in the matter of
31 Charles Brown, et al. v. David Hovatter, et al.

32 (2) Within 6 months after the matter of Charles Brown et al. v. David
33 Hovatter, et al. is resolved the Board of Morticians and Funeral Directors shall submit
34 a report to the Senate Education, Health, and Environmental Affairs Committee and

1 the House Health and Government Operations Committee, in accordance with §
2 2–1246 of the State Government Article, on:

3 (i) any proposals to alter the laws or regulations regarding
4 corporate licenses;

5 (ii) whether a surviving spouse or executor license is still
6 necessary; and

7 (iii) whether the requirement that an individual be a licensed
8 mortician to qualify for a funeral establishment license is necessary.

9 SECTION 4. AND BE IT FURTHER ENACTED, That, on or before December 1,
10 2008, and each year thereafter, the Board of Morticians and Funeral Directors shall
11 report to the Senate Education, Health, and Environmental Affairs Committee and
12 the House Health and Government Operations Committee, in accordance with §
13 2–1246 of the State Government Article, regarding effectiveness of pre-need
14 regulations.

15 SECTION 5. AND BE IT FURTHER ENACTED, That, on or before December 1,
16 2010, the Board of Morticians and Funeral Directors shall submit a report to the
17 Senate Education, Health, and Environmental Affairs Committee and the House
18 Health and Government Operations Committee, in accordance with § 2–1246 of the
19 State Government Article, on the outcome of reestablishing the funeral director license
20 including the number of: (1) students enrolled in the funeral director program at the
21 Community College of Baltimore County; (2) applicants for a funeral director
22 apprenticeship license; and (3) funeral director licenses issued.

23 SECTION 6. AND BE IT FURTHER ENACTED, That this Act shall take effect
24 July 1, 2008.

Approved:

Governor.

President of the Senate.

Speaker of the House of Delegates.