

SENATE BILL 895

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CF 2lr0576

By: **Senator Conway**

Introduced and read first time: February 3, 2012

Assigned to: Finance

A BILL ENTITLED

1 AN ACT concerning

2 **Maryland State Board of Morticians and Funeral Directors – Permits and**
3 **Registration Required to Remove and Transport Human Remains**

4 FOR the purpose of requiring a mortuary transport service to hold a permit issued by
5 the Maryland State Board of Morticians and Funeral Directors before removing
6 or transporting human remains in this State; authorizing the Board to restrict
7 the operations of certain permit holders; establishing certain application
8 requirements for obtaining a permit; requiring a mortuary transport service to
9 meet certain standards to qualify for a permit; requiring permit holders to use
10 vehicles that have passed an inspection by certain inspectors; establishing the
11 term and procedures for the renewal of a permit; requiring that certain signs
12 and advertisements display the name that appears on a permit; requiring that
13 individuals employed by certain permit holders be registered with the Board
14 before removing and transporting human remains; establishing certain
15 requirements for obtaining registration; requiring the Board to register an
16 individual who meets certain standards; requiring that registered transporters
17 treat certain decedents with certain dignity and display a certain permit;
18 authorizing the Board to deny a permit or registration to an applicant,
19 reprimand a permit holder or registered transporter, or suspend or revoke a
20 permit or registration under certain circumstances; providing for certain
21 criminal and civil penalties; defining certain terms; and generally relating to
22 the Maryland State Board of Morticians and Funeral Directors and requiring
23 permits and registration for removing and transporting human remains.

24 BY renumbering

25 Article – Health Occupations

26 Section 7–601 and 7–602, respectively, and the subtitle “Subtitle 6. Short Title;
27 Termination of Title”

28 to be Section 7–701 and 7–702, respectively, and the subtitle “Subtitle 7. Short
29 Title; Termination of Title”

30 Annotated Code of Maryland

EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 (2009 Replacement Volume and 2011 Supplement)

2 BY repealing and reenacting, without amendments,
 3 Article – Health Occupations
 4 Section 7–101(a), (d), (k), (l), and (p)
 5 Annotated Code of Maryland
 6 (2009 Replacement Volume and 2011 Supplement)

7 BY adding to
 8 Article – Health Occupations
 9 Section 7–601 through 7–606 to be under the new subtitle “Subtitle 6.
 10 Mortuary Transport Services”
 11 Annotated Code of Maryland
 12 (2009 Replacement Volume and 2011 Supplement)

13 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF
 14 MARYLAND, That Section(s) 7–601 and 7–602, respectively, and the subtitle “Subtitle
 15 6. Short Title; Termination of Title” of Article – Health Occupations of the Annotated
 16 Code of Maryland be renumbered to be Section(s) 7–701 and 7–702, respectively, and
 17 the subtitle “Subtitle 7. Short Title; Termination of Title”.

18 SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland
 19 read as follows:

20 **Article – Health Occupations**

21 7–101.

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

23 (d) “Board” means the Maryland State Board of Morticians and Funeral
 24 Directors.

25 (k) “Funeral establishment” means any building, structure, or premises from
 26 which the business of practicing mortuary science is conducted.

27 (l) (1) “Human remains” means:

28 (i) The body of a deceased person; or

29 (ii) A part of a body or limb that has been removed from a living
 30 person.

31 (2) “Human remains” includes the body or part of a body or limb in
 32 any state of decomposition.

1 (p) "Licensed funeral establishment" means, unless the context requires
2 otherwise, a funeral establishment that is licensed by the Board.

3 **SUBTITLE 6. MORTUARY TRANSPORT SERVICES.**

4 **7-601.**

5 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS
6 INDICATED.

7 (B) (1) "MORTUARY TRANSPORT SERVICE" MEANS AN INDIVIDUAL
8 OR A BUSINESS ENTITY THAT, FOR COMPENSATION, REMOVES AND
9 TRANSPORTS HUMAN REMAINS OR EMPLOYS A TRANSPORTER TO REMOVE OR
10 TRANSPORT HUMAN REMAINS.

11 (2) "MORTUARY TRANSPORT SERVICE" DOES NOT INCLUDE A
12 LICENSED FUNERAL ESTABLISHMENT OR AN EMPLOYEE OF A LICENSED
13 FUNERAL ESTABLISHMENT THAT REMOVES AND TRANSPORTS HUMAN REMAINS.

14 (C) "PERMIT" MEANS A PERMIT ISSUED BY THE BOARD TO THE OWNER
15 OF A MORTUARY TRANSPORT SERVICE TO OPERATE IN THE STATE.

16 (D) "PERMIT HOLDER" MEANS A MORTUARY TRANSPORT SERVICE THAT
17 HOLDS A PERMIT ISSUED BY THE BOARD.

18 (E) "REGISTERED TRANSPORTER" MEANS AN INDIVIDUAL EMPLOYEE
19 OF A MORTUARY TRANSPORT SERVICE WHO HAS REGISTERED WITH THE BOARD
20 TO REMOVE AND TRANSPORT HUMAN REMAINS.

21 (F) "REMOVE AND TRANSPORT HUMAN REMAINS" MEANS TO REMOVE
22 HUMAN REMAINS FROM ONE LOCATION AND TRANSPORT THE HUMAN REMAINS
23 TO ANOTHER LOCATION.

24 (G) "TRANSPORTER" MEANS AN INDIVIDUAL WHO REMOVES AND
25 TRANSPORTS HUMAN REMAINS.

26 **7-602.**

27 (A) (1) A MORTUARY TRANSPORT SERVICE SHALL BE ISSUED A
28 PERMIT BY THE BOARD BEFORE THE MORTUARY TRANSPORT SERVICE MAY
29 REMOVE AND TRANSPORT HUMAN REMAINS IN THIS STATE.

30 (2) A PERMIT HOLDER MAY BE RESTRICTED TO OPERATIONS TO
31 REMOVE AND TRANSPORT HUMAN REMAINS AS DETERMINED BY THE BOARD.

1 **(B) (1) TO APPLY FOR A PERMIT, A MORTUARY TRANSPORT SERVICE**
2 **SHALL SUBMIT TO THE BOARD:**

3 **(I) AN APPLICATION ON THE FORM THAT THE BOARD**
4 **REQUIRES;**

5 **(II) AN APPLICATION FEE SET BY THE BOARD; AND**

6 **(III) EVIDENCE THAT THE MORTUARY TRANSPORT SERVICE**
7 **HOLDS A BOND AT THE TIME OF APPLICATION OR HAS THE ABILITY TO SECURE A**
8 **BOND.**

9 **(2) AN APPLICATION FOR A PERMIT SHALL BE SIGNED BY AN**
10 **INDIVIDUAL WHO IS THE OWNER OR A CO-OWNER OF THE MORTUARY**
11 **TRANSPORT SERVICE TO BE ISSUED A PERMIT.**

12 **(C) TO QUALIFY FOR A PERMIT, A MORTUARY TRANSPORT SERVICE**
13 **SHALL SATISFY THE BOARD THAT THE MORTUARY TRANSPORT SERVICE:**

14 **(1) HAS COMPLIED WITH ALL APPLICABLE STATE AND LOCAL**
15 **LAWS;**

16 **(2) WILL BE OWNED AND OPERATED IN ACCORDANCE WITH THIS**
17 **SUBTITLE; AND**

18 **(3) WHILE THE MORTUARY TRANSPORT SERVICE REMOVES AND**
19 **TRANSPORTS HUMAN REMAINS, WILL BE HELD RESPONSIBLE FOR THE**
20 **TREATMENT OF THE HUMAN REMAINS.**

21 **(D) A PERMIT HOLDER SHALL USE VEHICLES THAT HAVE PASSED AN**
22 **INSPECTION BY AN INSPECTOR DESIGNATED BY THE BOARD WHILE THE PERMIT**
23 **HOLDER REMOVES AND TRANSPORTS HUMAN REMAINS.**

24 **(E) (1) (I) A PERMIT ISSUED UNDER THIS SUBTITLE SHALL EXPIRE**
25 **ON THE DATE SET BY THE BOARD.**

26 **(II) A PERMIT MAY NOT BE RENEWED FOR A TERM LONGER**
27 **THAN 2 YEARS.**

28 **(2) A PERMIT HOLDER MAY RENEW A PERMIT FOR ADDITIONAL**
29 **TERMS, IF THE PERMIT HOLDER:**

1 **(I) SUBMITS TO THE BOARD:**

2 **1. AN APPLICATION ON THE FORM THAT THE BOARD**
3 **REQUIRES; AND**

4 **2. AN APPLICATION FEE SET BY THE BOARD; AND**

5 **(II) COMPLIES WITH ANY OTHER RENEWAL REQUIREMENTS**
6 **ESTABLISHED BY THE BOARD.**

7 **(F) SIGNS AND ADVERTISEMENTS FOR A MORTUARY TRANSPORT**
8 **SERVICE SHALL DISPLAY THE NAME OF THE MORTUARY TRANSPORT SERVICE AS**
9 **IT APPEARS ON THE PERMIT.**

10 **7-603.**

11 **(A) AN INDIVIDUAL EMPLOYED BY A PERMIT HOLDER SHALL BE**
12 **REGISTERED WITH THE BOARD AS A TRANSPORTER BEFORE THE INDIVIDUAL**
13 **MAY REMOVE AND TRANSPORT HUMAN REMAINS.**

14 **(B) TO REGISTER AS A TRANSPORTER, AN INDIVIDUAL SHALL SUBMIT**
15 **TO THE BOARD:**

16 **(1) A SIGNED APPLICATION ON THE FORM THAT THE BOARD**
17 **REQUIRES;**

18 **(2) A REGISTRATION FEE SET BY THE BOARD;**

19 **(3) EVIDENCE OF THE COMPLETION OF COURSEWORK**
20 **RECOMMENDED BY THE BOARD; AND**

21 **(4) EVIDENCE THAT THE INDIVIDUAL IS BONDED AND CARRIES**
22 **LIABILITY INSURANCE.**

23 **(C) THE BOARD SHALL REGISTER AN INDIVIDUAL WHO:**

24 **(1) HOLDS A VALID MARYLAND DRIVER'S LICENSE; AND**

25 **(2) HAS COMPLIED WITH ALL APPLICABLE STATE AND LOCAL**
26 **LAWS.**

1 **(D) WHILE A REGISTERED TRANSPORTER REMOVES AND TRANSPORTS**
2 **HUMAN REMAINS OR OTHERWISE ACTS IN THE CAPACITY OF A REGISTERED**
3 **TRANSPORTER, THE REGISTERED TRANSPORTER SHALL:**

4 **(1) TREAT EVERY DECEDENT WITH THE UTMOST DIGNITY; AND**

5 **(2) PROMINENTLY DISPLAY ON THEIR PERSON THE PERMIT FOR**
6 **THE MORTUARY TRANSPORT SERVICE FOR WHICH THE TRANSPORTER IS**
7 **EMPLOYED.**

8 **7-604.**

9 **SUBJECT TO THE HEARING PROVISIONS OF § 7-319 OF THIS TITLE, THE**
10 **BOARD MAY DENY A PERMIT OR REGISTRATION TO ANY APPLICANT,**
11 **REPRIMAND ANY PERMIT HOLDER OR REGISTERED TRANSPORTER, PLACE ANY**
12 **PERMIT HOLDER OR REGISTERED TRANSPORTER ON PROBATION, OR SUSPEND**
13 **OR REVOKE ANY PERMIT OR REGISTRATION IF THE APPLICANT, PERMIT**
14 **HOLDER, OR REGISTERED TRANSPORTER:**

15 **(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO**
16 **OBTAIN A PERMIT OR REGISTRATION FOR THE APPLICANT, PERMIT HOLDER,**
17 **REGISTERED TRANSPORTER, OR ANOTHER;**

18 **(2) FRAUDULENTLY OR DECEPTIVELY USES A PERMIT OR**
19 **REGISTRATION;**

20 **(3) COMMITS FRAUD OR MISREPRESENTATION WHILE THE**
21 **APPLICANT, PERMIT HOLDER, OR REGISTERED TRANSPORTER REMOVES AND**
22 **TRANSPORTS HUMAN REMAINS;**

23 **(4) IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE**
24 **TO A FELONY OR TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT**
25 **ANY APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR**
26 **PLEA SET ASIDE;**

27 **(5) AIDS OR ABETS AN UNAUTHORIZED PERSON TO REMOVE AND**
28 **TRANSPORT HUMAN REMAINS;**

29 **(6) ADVERTISES FALSELY OR IN A MISLEADING MANNER;**

30 **(7) SOLICITS TO REMOVE AND TRANSPORT HUMAN REMAINS,**
31 **EITHER PERSONALLY OR BY AN AGENT, FROM A DYING INDIVIDUAL OR THE**

1 RELATIVES OF A DEAD OR DYING INDIVIDUAL, OTHER THAN THROUGH GENERAL
2 ADVERTISING;

3 (8) EMPLOYS, PAYS, OR OFFERS TO PAY A “CAPPER”, “STEERER”,
4 “SOLICITOR”, OR ANY OTHER PERSON TO OBTAIN BUSINESS, EITHER IN
5 GENERAL OR FOR A PERMIT HOLDER OR REGISTERED TRANSPORTER;

6 (9) DIRECTLY OR INDIRECTLY PAYS OR OFFERS TO PAY TO
7 OBTAIN BUSINESS TO REMOVE AND TRANSPORT HUMAN REMAINS;

8 (10) SOLICITS OR ACCEPTS ANY PAYMENT OR REBATE FOR
9 RECOMMENDING ANY CREMATORY, MAUSOLEUM, OR CEMETERY OR CAUSING
10 HUMAN REMAINS TO BE DISPOSED OF THERE;

11 (11) REFUSES TO SURRENDER CUSTODY OF HUMAN REMAINS ON
12 THE DEMAND OF A PERSON WHO IS ENTITLED TO THEIR CUSTODY;

13 (12) SELLS OR OFFERS TO SELL ANY SHARE, CERTIFICATE, OR
14 INTEREST IN A MORTUARY TRANSPORT SERVICE WITH A PROMISE OR OFFER TO
15 PERFORM SERVICES TO THE BUYER AT A COST LESS THAN THAT OFFERED TO
16 THE GENERAL PUBLIC;

17 (13) VIOLATES ANY STATE, MUNICIPAL, OR COUNTY LAW, RULE,
18 OR REGULATION ON THE HANDLING, CUSTODY, CARE, OR TRANSPORTATION OF
19 HUMAN REMAINS OR THE DISPOSAL OF INSTRUMENTS, MATERIALS, AND WASTES
20 RELEVANT TO PREPARATION OF HUMAN REMAINS FOR FINAL DISPOSITION;

21 (14) REMOVES AND TRANSPORTS HUMAN REMAINS UNDER A NAME
22 OTHER THAN THE NAME THAT APPEARS ON THE PERMIT OR REGISTRATION OF
23 THE PERMIT HOLDER OR REGISTERED TRANSPORTER;

24 (15) SIGNS AN APPLICATION FOR A PERMIT OR REGISTRATION IF
25 THE SIGNER KNEW OR SHOULD HAVE KNOWN THAT GROUNDS EXISTED FOR
26 WHICH THE PERMIT OR REGISTRATION LATER WAS DENIED, SUSPENDED, OR
27 REVOKED;

28 (16) VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF ANY
29 OTHER LAW RELATING TO REMOVING AND TRANSPORTING HUMAN REMAINS;

30 (17) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY
31 AUTHORITY OF ANY OTHER STATE OR COUNTRY OR CONVICTED OR DISCIPLINED
32 BY A COURT OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS
33 FOR DISCIPLINARY ACTION UNDER THE BOARD’S DISCIPLINARY STATUTES;

1 **(18) WILLFULLY MAKES OR FILES A FALSE REPORT OR RECORD**
2 **FOR A MORTUARY TRANSPORT SERVICE;**

3 **(19) WILLFULLY FAILS TO FILE OR RECORD ANY REPORT AS**
4 **REQUIRED UNDER LAW, WILLFULLY IMPEDES OR OBSTRUCTS THE FILING OR**
5 **RECORDING OF THE REPORT, OR INDUCES ANOTHER TO FAIL TO FILE OR**
6 **RECORD THE REPORT;**

7 **(20) SUBMITS A FALSE STATEMENT TO COLLECT A FEE;**

8 **(21) PROVIDES PROFESSIONAL SERVICES WHILE:**

9 **(I) UNDER THE INFLUENCE OF ALCOHOL; OR**

10 **(II) USING ANY NARCOTIC OR CONTROLLED DANGEROUS**
11 **SUBSTANCE, AS DEFINED IN § 5-101 OF THE CRIMINAL LAW ARTICLE, OR**
12 **OTHER DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT**
13 **VALID MEDICAL INDICATION;**

14 **(22) VIOLATES ANY RULE OR REGULATION ADOPTED BY THE**
15 **BOARD;**

16 **(23) IS PROFESSIONALLY, PHYSICALLY, OR MENTALLY**
17 **INCOMPETENT;**

18 **(24) COMMITS AN ACT OF UNPROFESSIONAL CONDUCT WHILE**
19 **REMOVING AND TRANSPORTING HUMAN REMAINS;**

20 **(25) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES**
21 **AGAINST AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL**
22 **SERVICES FOR WHICH THE PERMIT HOLDER OR REGISTERED TRANSPORTER IS**
23 **QUALIFIED TO RENDER BECAUSE THE INDIVIDUAL IS HIV POSITIVE;**

24 **(26) EXCEPT IN AN EMERGENCY LIFE-THREATENING SITUATION**
25 **WHERE IT IS NOT FEASIBLE OR PRACTICABLE, FAILS TO COMPLY WITH THE**
26 **CENTERS FOR DISEASE CONTROL AND PREVENTION'S GUIDELINES ON**
27 **UNIVERSAL PRECAUTIONS;**

28 **(27) TAKES HUMAN REMAINS OUT OF THE STATE TO A FUNERAL**
29 **ESTABLISHMENT, MORTUARY, OR CREMATORY NOT PERMITTED TO BE**
30 **INSPECTED BY THE BOARD;**

1 **(28) REMOVES HUMAN REMAINS FROM A DEATH SCENE,**
2 **MORTUARY, FUNERAL ESTABLISHMENT, OR CREMATORY WITHOUT**
3 **AUTHORIZATION OF THE INDIVIDUAL OR ENTITY IN CUSTODY OF THE HUMAN**
4 **REMAINS;**

5 **(29) REMOVES AND TRANSPORTS HUMAN REMAINS, EITHER FREE**
6 **OF CHARGE OR FOR COMPENSATION, TO AN ENTITY WHERE THE HUMAN**
7 **REMAINS ARE NOT AUTHORIZED TO BE HELD; OR**

8 **(30) REMOVES AND TRANSPORTS HUMAN REMAINS WITHOUT**
9 **RESPECT FOR THE DECEDENT OR THE HEALTH AND SAFETY OF THE PUBLIC.**

10 **7-605.**

11 **(A) (1) UNLESS AN INDIVIDUAL OR ENTITY HOLDS A CURRENT**
12 **PERMIT ISSUED BY THE BOARD UNDER THIS SUBTITLE, THE INDIVIDUAL OR**
13 **ENTITY MAY NOT REPRESENT TO THE PUBLIC BY NAME, DESCRIPTION OF**
14 **SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL**
15 **OR ENTITY IS A PERMIT HOLDER.**

16 **(2) UNLESS AN INDIVIDUAL OR ENTITY HOLDS A CURRENT**
17 **PERMIT ISSUED BY THE BOARD UNDER THIS SUBTITLE, AN INDIVIDUAL OR**
18 **ENTITY MAY NOT USE THE WORDS “PERMITTED MORTUARY TRANSPORT**
19 **SERVICE” OR “MORTUARY TRANSPORT SERVICE” WITH THE INTENT TO**
20 **REPRESENT THAT THE INDIVIDUAL OR ENTITY IS AUTHORIZED TO OPERATE AS**
21 **A PERMIT HOLDER.**

22 **(B) (1) UNLESS AN INDIVIDUAL IS REGISTERED BY THE BOARD**
23 **UNDER THIS SUBTITLE, THE INDIVIDUAL MAY NOT REPRESENT TO THE PUBLIC**
24 **BY NAME, DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR**
25 **OTHERWISE, THAT THE INDIVIDUAL IS A REGISTERED TRANSPORTER.**

26 **(2) UNLESS AN INDIVIDUAL IS REGISTERED BY THE BOARD**
27 **UNDER THIS SUBTITLE, THE INDIVIDUAL MAY NOT USE THE TERMS**
28 **“REGISTERED TRANSPORTER” OR “TRANSPORTER” WITH THE INTENT TO**
29 **REPRESENT THAT THE INDIVIDUAL IS AUTHORIZED TO OPERATE AS A**
30 **REGISTERED TRANSPORTER.**

31 **(C) (1) A MORTUARY TRANSPORT SERVICE OR TRANSPORTER MAY**
32 **NOT OBTAIN A PERMIT OR REGISTRATION BY MAKING A FALSE STATEMENT.**

1 **(2) ON CONVICTION OF AN INDIVIDUAL FOR MAKING A FALSE**
2 **REPRESENTATION TO THE BOARD IN ORDER TO OBTAIN A PERMIT OR**
3 **REGISTRATION, THE PERMIT OR REGISTRATION IS VOID.**

4 **(D) A PERMIT HOLDER IS LIABLE FOR A VIOLATION OF ANY PROVISION**
5 **OF THIS SUBTITLE COMMITTED BY A REGISTERED TRANSPORTER IF:**

6 **(1) THE OWNER OR CO-OWNER OF THE MORTUARY TRANSPORT**
7 **SERVICE WAS A KNOWING PARTY TO THE VIOLATION; OR**

8 **(2) THE VIOLATION OCCURRED WHILE THE REGISTERED**
9 **TRANSPORTER WAS EMPLOYED BY THE PERMIT HOLDER.**

10 **7-606.**

11 **A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY**
12 **OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT**
13 **EXCEEDING \$500 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.**

14 **SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect**
15 **October 1, 2012.**