

Department of Legislative Services
Maryland General Assembly
2013 Session

FISCAL AND POLICY NOTE

Senate Bill 357 (Senator Conway)
Education, Health, and Environmental Affairs

**State Board of Morticians and Funeral Directors - Funeral Establishments -
Inspections**

This bill requires a licensee or an employee of a licensee of the State Board of Morticians and Funeral Directors to provide immediate access to a board member or board employee who arrives at a licensed funeral establishment for purposes of conducting an inspection. Access to the preparation and body storage areas of the establishment must be provided. The board must provide the results of the inspection to the holder of the funeral establishment license or the supervising mortician or funeral director within 24 hours after completion of the inspection. Under specified circumstances, an unannounced inspection of a funeral establishment may include advance notice that *a board member or board employee* may be in the region of the funeral establishment *for purposes of conducting an inspection*.

Fiscal Summary

State Effect: Potential minimal reduction in special fund expenditures for the State Board of Morticians and Funeral Directors beginning in FY 2014 due to reduced travel expenses. No effect on revenues.

Local Effect: None.

Small Business Effect: None.

Analysis

Current Law: All inspections of funeral establishments must be unannounced and may take place at any time without notice from the board. An unannounced inspection may include advance notice that an investigator may be in the region of the funeral

establishment if (1) the advance notice is no more than 14 days prior to the inspection; (2) no specific date or time is provided for the inspection; and (3) the advance notice is provided solely to ensure that a licensed mortician or funeral director will be on-site for the inspection.

To ensure that all funeral establishments meet State and federal standards, the board's investigator inspects each funeral establishment. Board regulations require an inspection to be done biennially, in furtherance of an investigation, and upon the sale or change in ownership of the establishment; however, statute is silent on the frequency of such inspections. Each inspection reviews such areas as the health, sanitation, and proper usage of the facility. An inspection also ensures that proper documentation is furnished to clients, establishment signs and advertising are accurate, and proper records are maintained.

Regulations specify that an owner, supervising mortician, supervising funeral director, or licensed designee must be available to accompany the inspector during the inspection and sign the inspection report. The board must review an inspection report, make a determination as to whether a deficiency exists, and notify the establishment in writing of the results of the inspection. If a licensee passes an inspection, the licensee must prominently display on the premises a statement issued by the board that the establishment has successfully passed an inspection. If the board finds a deficiency, the board must send to the owner notification of the deficiency or failure to pass the inspection within two weeks of the inspection. Generally, an owner must correct a deficiency within 30 days after receipt of notification. The board may require immediate correction of a deficiency if the board considers the correction necessary in the interest of public health.

Failure to allow an inspection of the establishment must result in an immediate suspension of an establishment license, subject to a subsequent opportunity for a hearing. Failure to comply with a notice to correct deficiencies or violations within the 30-day period, or any reasonable extension granted by the board, must result in an immediate suspension of an establishment license or the denial of a renewal of an establishment license, subject to a subsequent opportunity for a hearing.

Background: The State Board of Morticians and Funeral Directors issues licenses for apprentices, morticians, funeral directors, the surviving spouse of a mortician or funeral director (who continues to operate the funeral establishment in the event of the mortician's or funeral director's death), funeral establishments, and corporations. In fiscal 2012, the board issued 39 new and 897 renewal licenses, investigated 83 complaints, and conducted more than 225 inspections of funeral establishments. There are 297 funeral establishments in Maryland.

According to the board, the board inspector may arrive at a funeral establishment for an unannounced inspection but not be allowed entry as the license holder or supervising mortician or funeral director is not present. This requires the inspector to return to the establishment at a later time, reducing the investigator's efficiency and increasing travel expenditures. The inability to conduct an unannounced inspection also hinders sensitive investigations by the board, such as identification of unlicensed individuals practicing embalming or problems in the preparation and body storage areas of the facility. The bill is intended to protect the public and licensees who follow Maryland law and regulations and preserve the integrity of the inspection process.

Additional Information

Prior Introductions: None.

Cross File: HB 313 (Delegates Pena-Melnyk and V. Turner) - Health and Government Operations.

Information Source(s): Department of Health and Mental Hygiene, Department of Legislative Services

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