

# HOUSE BILL 190

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51r0946

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By: **Delegates Krebs, Ready, and Shoemaker**

Introduced and read first time: January 30, 2015

Assigned to: Health and Government Operations

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## A BILL ENTITLED

1 AN ACT concerning

2 **Office of Cemetery Oversight – State Board of Morticians and Funeral Directors**  
3 **– Crematories – Fees**

4 FOR the purpose of providing that certain fees, provided for by a certain process established  
5 by the Director of the Office of Cemetery Oversight for regulating crematories, apply  
6 to certain persons; clarifying that certain regulations be substantively identical  
7 except to the extent of certain statutory differences; prohibiting the Director from  
8 charging certain fees for registration as a crematory operator or issuance of a permit  
9 to operate a crematory; clarifying that a certain process for regulating crematories  
10 established by the State Board of Morticians and Funeral Directors provide for  
11 registration of crematory operators or issuance of permits for operating crematories;  
12 repealing a requirement that a certain process for regulating crematories established  
13 by the Board provide for certain fees; prohibiting the Board from charging certain  
14 fees for registration as a crematory operator or issuance of a permit to operate a  
15 crematory; and generally relating to the Office of Cemetery Oversight, the State  
16 Board of Morticians and Funeral Directors, crematories, and fees.

17 BY repealing and reenacting, without amendments,  
18 Article – Business Regulation  
19 Section 5–102(b)  
20 Annotated Code of Maryland  
21 (2010 Replacement Volume and 2014 Supplement)

22 BY repealing and reenacting, with amendments,  
23 Article – Business Regulation  
24 Section 5–204(a) and 5–205(b)  
25 Annotated Code of Maryland  
26 (2010 Replacement Volume and 2014 Supplement)

27 BY repealing and reenacting, without amendments,  
28 Article – Health Occupations

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 Section 7–102(b)  
2 Annotated Code of Maryland  
3 (2014 Replacement Volume)

4 BY repealing and reenacting, with amendments,  
5 Article – Health Occupations  
6 Section 7–205(c) and 7–206(b)  
7 Annotated Code of Maryland  
8 (2014 Replacement Volume)

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

11 **Article – Business Regulation**

12 5–102.

13 (b) This title does not apply to:

14 (1) the operation of a funeral establishment, including the sale of burial  
15 goods in the ordinary course of the funeral establishment’s business;

16 (2) the operation or ownership of a crematory in which a person who is  
17 licensed and regulated under Title 7 of the Health Occupations Article owns a greater  
18 percentage of the crematory than a registered cemeterian, registered seller, or holder of a  
19 permit for the operation of a cemetery or burial goods business;

20 (3) the operation or ownership of a crematory or incinerator at a licensed  
21 medical facility or educational institution;

22 (4) a licensed funeral director acting within the scope of the funeral  
23 director’s license; or

24 (5) a mortician acting within the scope of the mortician’s license.

25 5–204.

26 (a) (1) With the advice of the Advisory Council and after consultation with  
27 representatives of the cemetery industry, the Director shall adopt:

28 (i) rules and regulations to carry out this title; and

29 (ii) a code of ethics for engaging in the operation of a cemetery or  
30 crematory or providing burial goods.

31 (2) In conjunction with the State Board of Morticians and Funeral  
32 Directors, the Director shall:

- 1 (i) establish a process for regulating crematories that provides for:
- 2 1. registration of crematory operators or issuance of permits  
3 for operating crematories, and renewal;
- 4 2. applications, including certification of ownership and  
5 identification of individuals who will perform cremation;
- 6 3. registration and permit fees **FOR PERSONS THAT ARE**  
7 **NOT REGISTERED CEMETERIANS OR HOLDERS OF A PERMIT TO ENGAGE IN THE**  
8 **OPERATION OF A CEMETERY;**
- 9 4. inspections and oversight;
- 10 5. grounds for discipline and penalties; and
- 11 6. complaints and hearings; and

12 (ii) **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**  
13 **SUBSECTION**, adopt regulations that are **SUBSTANTIVELY** identical to regulations  
14 adopted by the State Board of Morticians and Funeral Directors to:

- 15 1. implement item (i) of this paragraph; and
- 16 2. ensure public health and safety.

17 **(3) REGULATIONS MAY BE DIFFERENT IN ACCORDANCE WITH**  
18 **STATUTORY DIFFERENCES BETWEEN THIS TITLE AND TITLE 7 OF THE HEALTH**  
19 **OCCUPATIONS ARTICLE.**

20 5–205.

21 (b) (1) (i) [By regulation] **EXCEPT AS PROVIDED IN PARAGRAPH (3) OF**  
22 **THIS SUBTITLE**, the Director shall **ADOPT REGULATIONS TO** establish reasonable fees  
23 and a fee schedule for the issuance and renewal of registrations and permits.

24 (ii) The Director may not assess a crematory a per–occurrence  
25 cremation fee.

26 (2) In establishing the fees, the Director shall consider the size of the  
27 business, whether the business is for–profit or designated as tax exempt under § 501(c) of  
28 the Internal Revenue Code, the volume of business conducted, and the type of services  
29 provided, including the percentage of preneed contracts written.



- 1                    ~~[(iv)](III)~~    Inspections and oversight;
- 2                    ~~[(v)](IV)~~     Grounds for discipline and penalties; and
- 3                    ~~[(vi)](V)~~      Complaints and hearings; and

4                    (2)    **[Adopt] EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS**  
5 **SUBSECTION, ADOPT** regulations that are **SUBSTANTIVELY** identical to regulations  
6 adopted by the Director of the Office of Cemetery Oversight to:

- 7                    (i)     Implement item (1) of this subsection; and
- 8                    (ii)    Ensure public health and safety.

9                    **(3) REGULATIONS MAY BE DIFFERENT IN ACCORDANCE WITH**  
10 **STATUTORY DIFFERENCES BETWEEN THIS TITLE AND TITLE 5 OF THE BUSINESS**  
11 **REGULATION ARTICLE.**

12 7–206.

13                    (b)    (1)    **[The] EXCEPT AS PROVIDED IN PARAGRAPH (4) OF THIS**  
14 **SUBSECTION, THE** Board may set reasonable fees for its services.

15                    (2)    The fees charged shall be set so as to approximate the cost of  
16 maintaining the Board.

17                    (3)    Funds to cover the compensation and expenses of the Board members  
18 shall be generated by fees set under this section.

19                    **(4) THE BOARD MAY NOT CHARGE A LICENSEE AN ADDITIONAL FEE**  
20 **FOR REGISTRATION AS A CREMATORY OPERATOR OR ISSUANCE OF A PERMIT TO**  
21 **OPERATE A CREMATORY.**

22                    SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2015.