

Department of Legislative Services
Maryland General Assembly
2023 Session

FISCAL AND POLICY NOTE
Third Reader - Revised

House Bill 1060

(Delegate Kaiser, *et al.*)

Health and Government Operations

Finance

Cremations - Natural Organic Reduction - Regulation

This bill expands the definitions of “cremation” and “crematory” and conforms the definitions across the Business Regulation, Health-General, and Health Occupations articles. The bill authorizes the State Board of Morticians and Funeral Directors and the Director of the Office of Cemetery Oversight (OCO), in conjunction with one another, to adopt identical regulations establishing a process for regulating crematories that use “natural organic reduction.” Accordingly, the bill also exempts a funeral establishment or crematory from the requirement to maintain a body in a manner that provides for complete coverage of the body and prevents leakage or spillage during final disposition using a cremation process that does not involve incineration.

Fiscal Summary

State Effect: The board and OCO can adopt regulations and handle any additional workload with existing budgeted resources. Board and OCO special fund revenues may increase minimally beginning in FY 2024 to the extent regulations are adopted and entities seek additional crematory permits and/or crematory operator registrations so they may use natural organic reduction.

Local Effect: None.

Small Business Effect: Potential meaningful.

Analysis

Bill Summary: “Cremation” means the process of reducing human remains to (1) bone fragments through intense heat and evaporation, including any mechanical or thermal process or (2) soil through natural organic reduction. “Crematory” means a building,

portion of a building, or structure that houses the necessary appliances and facilities for cremation. “Natural organic reduction” means a controlled, accelerated conversion of human remains to soil.

Regulations adopted by the board and OCO may include (1) additional or different registration requirements for crematory operators that perform natural organic reduction; (2) additional or different requirements regarding the issuance of permits or permit endorsements for operating crematories that perform natural organic reduction; (3) any operating requirements determined necessary for crematories that perform natural organic reduction, including minimum training requirements for individuals who are responsible for operating a crematory or who will perform or supervise cremations that use natural organic reduction; (4) alternative methods for the final placement of soil produced after the completion of natural organic reduction, including for if the soil produced is unclaimed after reasonable notice is given to the next of kin of the deceased or other person who authorized the cremation; and (5) other reasonable requirements for inspection, soil testing, and oversight as determined necessary within the board’s or OCO’s discretion.

Current Law: In Maryland, cremation is regulated either by OCO within the Maryland Department of Labor or the board within the Maryland Department of Health, based on ownership of the crematory. Specifically, OCO and the board each regulate facilities in which their registrants/permit holders or licensees hold majority ownership. Independent (or free-standing) crematories are subject to the jurisdiction of OCO. As part of their joint oversight of crematories, OCO and the board must adopt identical regulations.

Accordingly, “cremation” is defined identically under the Business Regulation and Health Occupations articles. Specifically, “cremation” means the process of reducing human remains to bone fragments through intense heat and evaporation, including any mechanical or thermal process. However, under the Health-General Article, “cremation” means the disposition of a dead human body by means of incineration.

Under the Business Regulation and Health Occupations articles, “crematory” means a building, portion of a building, or structure that houses the necessary appliances and facilities for cremation. Under the Health-General Article, “crematory” means a building in which cremations are performed.

On taking custody of a body, a funeral establishment or crematory must maintain the body in a manner that provides for complete coverage of the body and prevents leakage or spillage except during (1) identification, embalming, or preparation of an unembalmed body for final disposition; (2) restoration and dressing of a body in preparation for final disposition; and (3) viewing during a visitation or funeral service.

Office of Cemetery Oversight

OCO registers and regulates the cemetery and burial goods industry in the State. Crematories under the jurisdiction of OCO must hold a permit for the crematory business if the crematory is not a sole proprietorship, and a crematory operator must also be registered with OCO. More specifically, OCO issues crematory permits to (1) a registered cemeterian or other permit holder who owns a greater or equal interest in a crematory operated in conjunction with a licensee of the board and (2) a crematory owner who does not hold a license, permit, or registration from either OCO or the board (*i.e.*, a free-standing or independent crematory).

State Board of Morticians and Funeral Directors

The board is responsible for the credentialing, examination, licensure, and discipline of morticians, funeral directors, corporations, certain crematory operators, apprentices, surviving spouses, mortuary transport services, transporters, courtesy card holders, and holders of an executor license in Maryland. The board also licenses, permits, and inspects funeral establishments and specified crematories. The board issues crematory permits and crematory operator registrations to crematories if the majority interest in the crematory is held by a licensee of the board.

Joint Regulatory Duties

In conjunction with OCO, the board must establish a process for regulating crematories that provides for (1) registration of crematory operators or issuance of permits for operating crematories and renewal; (2) applications, including certification of ownership and identification of individuals who will perform cremation; (3) registration or permit fees; (4) inspections and oversight; (5) grounds for discipline and penalties; and (6) complaints and hearings. The board and OCO must also adopt identical regulations, as specified, to ensure public health and safety.

State Fiscal Effect: The bill authorizes the board and OCO to adopt regulations establishing a process for regulating crematories that use natural organic reduction. Any impact, therefore, depends on whether the board and OCO elect to adopt such regulations. If they do, the impact depends on decisions related to whether separate permits and registrations or endorsements (along with separate/additional fees) are required rather than allowing the existing credentials to encompass natural organic reduction (assuming proper training). This analysis assumes that any independent crematories that use natural organic reduction must be regulated by OCO. Otherwise, crematories that use natural organic reduction are regulated either by OCO (if associated with cemeteries) or the board (if associated with funeral establishments).

The board and OCO currently charge the same fees for crematories: \$350 for both an initial and renewal crematory permit and \$300 for both an initial and renewal registration as a crematory operator. As noted above, however, it is possible that the fee structure for a crematory that uses natural organic reduction will be different from the current fees.

To the extent that *new* crematories regulated by OCO apply for a crematory permit and/or crematory operator registration specifically to use natural organic reduction, special fund revenues increase beginning as early as fiscal 2024. To the extent existing crematories regulated either by OCO or the board expand their operations to use natural organic reduction, special fund revenues may increase – but only if an additional fee is required.

Regardless, this analysis assumes that uptake of natural organic reduction will be limited. Thus, any additional special fund fee revenues are assumed to be minimal, and any additional workload for OCO and the board can be handled with existing budgeted resources.

Small Business Effect: Should the board and OCO elect to adopt regulations establishing a process for regulating crematories that use natural organic reduction, crematories that meet requirements may offer natural organic reduction cremations to their clients.

Additional Information

Prior Introductions: Similar legislation has not been introduced within the last three years.

Designated Cross File: None.

Information Source(s): Maryland Department of Health; Maryland Department of Labor; Department of Legislative Services

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