

# SENATE BILL 642

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CF HB 693

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By: **Senator Bates**

Introduced and read first time: February 3, 2017

Assigned to: Education, Health, and Environmental Affairs

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## A BILL ENTITLED

1 AN ACT concerning

2 **State Board of Morticians and Funeral Directors – Investigations and**  
3 **Subpoenas – Revisions**

4 FOR the purpose of altering the circumstances under which a body of a decedent may be  
5 transported for preparation or storage to a facility that is not within the jurisdiction  
6 of the State, licensed by the State Board of Morticians and Funeral Directors, or  
7 permitted by the Office of Cemetery Oversight; requiring the Board to develop  
8 certain checklists and to post the templates for the checklists on the Board's Web  
9 site; clarifying the types of laws a funeral establishment is required to comply with  
10 to be licensed by the Board; requiring certain subpoenas to include certain  
11 information; providing that a recipient of a certain subpoena has a certain number  
12 of days to comply with the subpoena; requiring the Board to inspect a funeral  
13 establishment under certain circumstances; providing that certain inspections of  
14 funeral establishments be completed using a certain checklist; prohibiting the Board  
15 from citing a deficiency for an item that is not on a certain checklist; requiring the  
16 Board to provide a completed checklist to certain individuals within a certain period  
17 of time after an inspection; and generally relating to investigations conducted and  
18 subpoenas issued by the State Board of Morticians and Funeral Directors.

19 BY repealing and reenacting, with amendments,  
20 Article – Health – General  
21 Section 5–513(g)  
22 Annotated Code of Maryland  
23 (2015 Replacement Volume and 2016 Supplement)

24 BY repealing and reenacting, with amendments,  
25 Article – Health Occupations  
26 Section 7–205(a)(8), 7–310(c)(1), 7–319(d), and 7–409  
27 Annotated Code of Maryland  
28 (2014 Replacement Volume and 2016 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



BY adding to  
Article – Health Occupations  
Section 7–205(d)  
Annotated Code of Maryland  
(2014 Replacement Volume and 2016 Supplement)

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

**Article – Health – General**

5–513.

(g) (1) Except as provided in paragraph (2) of this subsection, while the body of a decedent is in the custody of a funeral establishment or crematory in the State, the body may not be transported for preparation or storage to a facility that is not within the jurisdiction of the State, licensed by the State Board of Morticians and Funeral Directors, or permitted by the Office of Cemetery Oversight.

(2) The body of a decedent may be transported for preparation or storage to a facility that is not within the jurisdiction of the State, licensed by the State Board of Morticians and Funeral Directors, or permitted by the Office of Cemetery Oversight if:

(i) [The facility has entered into a written agreement with the State Board of Morticians and Funeral Directors or the Office of Cemetery Oversight to allow the State to make unannounced inspections of the facility; and

(ii) The person authorized to arrange for the final disposition of the body under § 5–509 of this subtitle:

1. Has given written permission for the body to be transported to the facility; or

2. A. Has given oral permission for the body to be transported to the facility; and

B. Within 36 hours after giving oral permission, provides written verification of the oral permission; AND

**(II) THE PERMISSION REQUIRED UNDER ITEM (I) OF THIS PARAGRAPH IS GIVEN TO THE FUNERAL HOME OR CREMATORY IN THE STATE THAT HAS CUSTODY OF THE BODY BEFORE THE BODY IS TRANSPORTED.**

**Article – Health Occupations**

7–205.

(a) In addition to the powers and duties set forth elsewhere in this title, the Board has the following powers and duties:

(8) To inspect licensed funeral establishments **IN ACCORDANCE WITH § 7-409 OF THIS TITLE;**

**(D) THE BOARD SHALL:**

**(1) DEVELOP A CHECKLIST THAT:**

**(I) LISTS THE ITEMS TO BE INSPECTED DURING THE INSPECTION OF A FUNERAL ESTABLISHMENT;**

**(II) LISTS THE CITATION FOR THE SECTION AND SUBSECTION OF THIS TITLE OR THE REGULATION UNDER TITLE 10, SUBTITLE 29 OF THE MARYLAND CODE OF REGULATIONS THAT ESTABLISHES THE STANDARD FOR THE ITEM; AND**

**(III) INCLUDES A CHECK-OFF BOX FOR COMPLIANT, NONCOMPLIANT, AND NOT APPLICABLE OR NOT REVIEWED;**

**(2) DEVELOP A CHECKLIST THAT:**

**(I) LISTS THE ITEMS TO BE INSPECTED DURING THE INSPECTION OF A CREMATORY;**

**(II) LISTS THE CITATION FOR THE SECTION AND SUBSECTION OF THIS TITLE OR THE REGULATION UNDER TITLE 10, SUBTITLE 29 OF THE MARYLAND CODE OF REGULATIONS THAT ESTABLISHES THE STANDARD FOR THE ITEM; AND**

**(III) INCLUDES A CHECK-OFF BOX FOR COMPLIANT, NONCOMPLIANT, AND NOT APPLICABLE OR NOT REVIEWED; AND**

**(3) POST THE TEMPLATE FOR THE CHECKLISTS ESTABLISHED UNDER ITEMS (1) AND (2) OF THIS SUBSECTION ON THE BOARD'S WEB SITE.**

7-310.

(c) The Board shall issue a funeral establishment license to a funeral establishment that:

(1) Has complied with [all applicable] State and local laws **REGULATING THE PRACTICE OF FUNERAL DIRECTION, THE PRACTICE OF MORTUARY SCIENCE, OR THE BUSINESS OF OPERATING A CREMATORY, AS APPLICABLE TO THE PRACTICE OR BUSINESS OF THE FUNERAL ESTABLISHMENT**; and

7-319.

(d) (1) Over the signature of an officer or the administrator of the Board, the Board may issue subpoenas and administer oaths in connection with any audit or investigation under this title and any hearings or proceedings before it.

(2) A SUBPOENA ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL INCLUDE:

(i) THE CITATION FOR THE SECTION AND SUBSECTION OF THIS TITLE OR THE REGULATION UNDER TITLE 10, SUBTITLE 29 OF THE MARYLAND CODE OF REGULATIONS THAT ESTABLISHES THE GROUNDS FOR THE INVESTIGATION, HEARING, OR PROCEEDING; OR

(ii) IF THE CITATION IS UNKNOWN, THE NATURE OF THE INVESTIGATION, HEARING, OR PROCEEDING.

(3) A RECIPIENT SERVED A SUBPOENA ISSUED UNDER PARAGRAPH (1) OF THIS SUBSECTION SHALL HAVE AT LEAST 7 BUSINESS DAYS AFTER BEING SERVED TO COMPLY WITH THE SUBPOENA.

7-409.

(a) (1) THE BOARD SHALL INSPECT A FUNERAL ESTABLISHMENT:

(i) EVERY 2 YEARS;

(ii) ON THE SALE OR CHANGE IN OWNERSHIP OF THE FUNERAL ESTABLISHMENT;

(iii) IN RESPONSE TO VALID INFORMATION PROVIDED TO THE BOARD RESULTING IN A COMPLAINT BEING OPENED BY THE BOARD CONCERNING THE PRACTICE OF FUNERAL DIRECTION, THE PRACTICE OF MORTUARY SCIENCE, OR THE BUSINESS OF OPERATING A CREMATORY; AND

(iv) ON RECEIPT OF A WRITTEN AND SIGNED COMPLAINT, INCLUDING A REFERRAL FROM THE COMMISSIONER OF LABOR AND INDUSTRY, TO DETERMINE COMPLIANCE AT THE FUNERAL ESTABLISHMENT WITH THE CENTERS

1 **FOR DISEASE CONTROL AND PREVENTION'S GUIDELINES ON UNIVERSAL**  
2 **PRECAUTIONS.**

3           **(2)** Except as provided in subsection (b) of this section, all inspections of  
4 funeral establishments shall be unannounced and may take place at any time without  
5 notice from the Board.

6           **(3) (I) EACH INSPECTION REQUIRED UNDER PARAGRAPH (1)(I)**  
7 **AND (II) OF THIS SUBSECTION SHALL BE COMPLETED USING A CHECKLIST**  
8 **DEVELOPED UNDER § 7-205(D) OF THIS TITLE.**

9                       **(II) THE BOARD MAY NOT CITE A DEFICIENCY FOR AN ITEM**  
10 **THAT IS NOT ON THE CHECKLIST.**

11           (b) An [unannounced] inspection may include advance notice that an inspector  
12 may be in the region of the funeral establishment for the purpose of conducting an  
13 inspection if:

14                       (1) The advance notice is no more than 14 days prior to the inspection;

15                       (2) No specific date or time is provided for the inspection; and

16                       (3) The advance notice is provided solely to ensure that a licensed  
17 mortician or funeral director will be on-site for the inspection.

18           (c) (1) This subsection applies to inspections conducted:

19                       (i) In response to valid information provided to the Board resulting  
20 in a complaint being opened by the Board concerning the preparation or body storage areas  
21 of a licensed funeral establishment only if the Board has provided a copy of the complaint  
22 to the licensed funeral establishment; or

23                       (ii) Of a funeral establishment that the Board has placed on  
24 probationary status in accordance with § 7-316(b) of this title.

25                       (2) A trained staff member of the Board who is qualified to do inspections  
26 may call the supervising mortician of a licensed funeral establishment, as designated under  
27 § 7-310(e) of this title, and request immediate access to the preparation and body storage  
28 areas of the funeral establishment.

29                       (3) If a request is made under paragraph (2) of this subsection, the  
30 supervising mortician immediately shall provide the staff member of the Board with the  
31 location of the key or access code to the preparation or body storage areas of the funeral  
32 establishment.

(4) An employee of a licensed funeral establishment is not required to accompany a staff member of the Board while the staff member conducts an inspection of a preparation or body storage area in accordance with this subsection.

(d) An unannounced inspection of a licensed funeral establishment shall be conducted during the hours that the business of mortuary science is being conducted at the licensed funeral establishment.

(e) **(1) [Within] EXCEPT AS PROVIDED IN PARAGRAPH (2) OF THIS SUBSECTION, WITHIN 24 hours after the completion of an unannounced inspection of a licensed funeral establishment, the Board shall provide the results of the inspection to:**

**[(1)] (I) The holder of the funeral establishment license; or**

**[(2)] (II) The supervising mortician for the licensed funeral establishment, as designated under § 7–310(e) of this title.**

**(2) WITHIN 24 HOURS AFTER THE COMPLETION OF AN INSPECTION REQUIRED UNDER SUBSECTION (A)(1)(I) OR (II) OF THIS SECTION, THE BOARD SHALL PROVIDE A COMPLETED CHECKLIST TO:**

**(I) THE HOLDER OF THE FUNERAL ESTABLISHMENT LICENSE;  
OR**

**(II) THE SUPERVISING MORTICIAN FOR THE LICENSED FUNERAL ESTABLISHMENT, AS DESIGNATED UNDER § 7–310(E) OF THIS TITLE.**

SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2017.