

SENATE BILL NO. 444

June 28, 2023, Introduced by Senators HERTEL, WEBBER, SHINK, SINGH, WOJNO and GEISS and referred to the Committee on Regulatory Affairs.

A bill to amend 1980 PA 299, entitled "Occupational code," by amending sections 1801, 1806a, and 1810 (MCL 339.1801, 339.1806a, and 339.1810), sections 1801 and 1810 as amended by 2020 PA 265 and section 1806a as added by 2013 PA 77, and by adding section 1809c.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

- 1 Sec. 1801. As used in this article:
- 2 (a) "Business entity" means a person described in section
- 3 105(5)(b) or (c), except a sole proprietorship or general

1 partnership.

2 (b) "Cemetery" means a cemetery that holds a valid permit or
3 valid registration granted under the cemetery regulation act, 1968
4 PA 251, MCL 456.521 to 456.543.

5 (c) "Crematory" means a building or structure, within which
6 the remains of deceased persons are or are intended to be cremated.

7 (d) ~~(b)~~ "Funeral establishment" means a place of business used
8 in the care and preparation for burial or transportation of a dead
9 human body or a place where an individual represents that ~~he or she~~
10 **individual** is engaged in the profession of undertaking or the
11 practice of mortuary science.

12 (e) ~~(e)~~ "Holder of a license for the practice of mortuary
13 science" means an individual who satisfactorily completes a course
14 in mortuary science, passes an examination required under this
15 article, serves the required resident training, and is issued a
16 license for the practice of mortuary science.

17 (f) ~~(d)~~ "Practice of embalming" means the disinfecting or
18 preserving of a dead human body, entirely or in part, by the use of
19 a chemical substance, fluid, or gas in the body or by the
20 introduction of a chemical substance, fluid, or gas into the body
21 by a vascular or hypodermic injection, or by direct application
22 into an organ or cavity.

23 (g) ~~(e)~~ "Practice of funeral directing" means engaging in or
24 representing oneself as engaging in the supervising of the burial
25 and disposal of a dead human body, managing a funeral establishment
26 for the preparation, disposition, and care of a dead human body, or
27 using, in connection with the user's name or funeral establishment,
28 the word "funeral director", "funeral service professional",
29 "undertaker", or "mortician", or any other title embodying the

1 words "mortuary science" or otherwise implying that the individual
2 is engaged as a funeral director.

3 (h) ~~(f)~~—"Practice of mortuary science" means the practice of
4 embalming or the practice of funeral directing, or both.

5 (i) ~~(g)~~—"Resident trainee" means an individual who is engaged
6 in learning the practice of embalming or funeral directing or the
7 practice of mortuary science under the instruction and personal
8 supervision of a holder of a license for the practice of mortuary
9 science in this state.

10 Sec. 1806a. (1) The department may issue a courtesy license to
11 engage in the practice of mortuary science to an individual if the
12 department determines that all of the following are met:

13 (a) The individual holds a valid license to practice mortuary
14 science, funeral directing, or another occupation that is the
15 equivalent of the practice of mortuary science or funeral
16 directing, issued by the state of Indiana, Ohio, or Wisconsin.

17 (b) The state that issued the license described in subdivision
18 (a) by law provides individuals licensed under this article
19 substantially the same opportunity to practice in that state as its
20 licensees are authorized to practice in this state under this
21 section.

22 (2) A courtesy license is valid for 2 years, beginning on the
23 date it is issued or renewed.

24 (3) An individual who holds a courtesy license may do any of
25 the following:

26 (a) Remove a dead human body from the place of death in this
27 state.

28 (b) Register with a local registrar under section 1807.

29 (c) Subject to section 1807, transport a dead human body to or

1 from the state in ~~which he or she~~ **the individual** is licensed.

2 (d) Subject to section 1807, supervise the final disposition
3 in this state of the human body of an individual who died in the
4 state in which ~~he or she~~ **the individual** is licensed.

5 **(e) Directly or indirectly own, manage, operate, maintain, or**
6 **be employed by a crematory.**

7 (4) An individual who holds only a courtesy license shall not
8 do any of the following in this state:

9 (a) Operate a funeral establishment.

10 (b) Engage in the practice of embalming.

11 (c) Advertise mortuary science, funeral directing, or
12 cremation services.

13 (d) ~~Directly~~ **Except as otherwise provided in subsection**
14 **(3) (e), directly** or indirectly own, manage, operate, maintain, or
15 be employed by a cemetery ~~or crematory~~ or engage in any similar
16 activity for which registration is required under the cemetery
17 regulation act, 1968 PA 251, MCL 456.521 to 456.543.

18 (e) ~~Violate~~ **Commit any of the violations in** section 1810.

19 (5) The department shall ensure that a courtesy license is
20 issued with the restrictions described in this section.

21 (6) As used in this section, "courtesy license" means a
22 license issued under this article to an individual described in
23 subsection (1) that is subject to the restrictions described in
24 this section.

25 **Sec. 1809c. An individual, partnership, association, municipal**
26 **corporation, body politic, or corporation that owns a funeral**
27 **establishment may directly or indirectly own, manage, operate, or**
28 **maintain a crematory for the incineration of human remains. The**
29 **crematory must not be owned, managed, operated, or maintained by a**

1 **person that also owns, manages, operates, or maintains a cemetery.**

2 Sec. 1810. (1) A person ~~shall be~~ **is** subject to the penalties
3 of article 6 if the person commits ~~1-any~~ of the following:

4 (a) Solicitation of a dead human body by a ~~licensed person~~
5 **licensee** or an agent, assistant, representative, employee, or
6 person acting on behalf and with the knowledge and consent, express
7 or implied, of the ~~licensed person, licensee~~, whether the
8 solicitation occurs after death or while death is impending, or the
9 procuring or allowing directly or indirectly of a person to call
10 upon an institution or individual by whose influence a dead human
11 body may be turned over to the licensed person or funeral
12 establishment.

13 (b) Procuring a person known as capper, steerer, or solicitor
14 to obtain funeral directing or embalming, or allowing or permitting
15 a capper, steerer, or solicitor to obtain funeral directing or
16 embalming for a ~~licensed person~~ **licensee** or funeral establishment.

17 (c) The direct or indirect payment or offer of payment of a
18 commission by a ~~licensed person~~ **licensee** or an agent,
19 representative, assistant, or employee of the ~~licensed person~~
20 **licensee** for the purpose of securing business.

21 (d) Aiding or abetting ~~an unlicensed person~~ **a nonlicensee** to
22 engage in the practice of funeral directing or embalming.

23 (e) Using profane, indecent, or obscene language in the
24 presence of a dead human body, or within the immediate hearing of
25 the family or relatives of a deceased, whose body has not yet been
26 interred or otherwise disposed of.

27 (f) ~~Solicitation~~ **Subject to subsection (4), solicitation** or
28 acceptance by a ~~licensed person~~ **licensee** of a commission or bonus
29 or rebate in consideration of recommending or causing a dead human

1 body to be disposed of in a crematory, mausoleum, or cemetery.

2 (g) Using a casket or part of a casket that has been
3 previously used as a receptacle for, or in connection with, the
4 burial or other disposition of a dead human body. This subdivision
5 does not apply to a casket or part of a casket that was designed
6 and manufactured for more than 1 use.

7 (h) A violation of any of the following:

8 (i) Section 2652, 2653, 2659, 2663, 2836, 2842, 2843, 2848,
9 2850, 2851, 2853, or 2854 of the public health code, 1978 PA 368,
10 MCL 333.2652, 333.2653, 333.2659, 333.2663, 333.2836, 333.2842,
11 333.2843, 333.2848, 333.2850, 333.2851, 333.2853, and 333.2854, or
12 the rules promulgated under those sections.

13 (ii) Sections 3206 to 3209 of the estates and protected
14 individuals code, 1998 PA 386, MCL 700.3206 to 700.3209.

15 (iii) A municipal or county ordinance or regulation affecting
16 the handling, custody, care, or transportation of a dead human
17 body.

18 (i) Refusing to promptly surrender the custody of a dead human
19 body, upon the express order of the person lawfully entitled to the
20 custody.

21 (j) Failure to secure a permit for removal or burial of a dead
22 human body before interment or disposal.

23 (k) Obtaining possession of or embalming a dead human body
24 without first being expressly directed or authorized to do so by a
25 relative of the decedent or a person entitled to custody. This
26 subdivision does not apply to the embalming of a dead human body
27 if, in accordance with sections 3206 to 3209 of the estates and
28 protected individuals code, 1998 PA 386, MCL 700.3206 to 700.3209,
29 reasonable efforts to obtain the authorization described in this

1 subdivision have been made but were not successful and more than 48
2 hours have elapsed since the decedent's death.

3 (l) Knowingly making a false statement on a certificate of
4 death.

5 (m) Removing or embalming a dead human body if there is
6 information indicating the commission of a crime or an act of
7 violence in connection with the cause of death, unless permission
8 of the county medical examiner has first been obtained.

9 (n) If a public officer or employee, an official of a public
10 institution, convalescent home, private nursing home, maternity
11 home, public or private hospital, physician or surgeon, or any
12 other person having a professional relationship with a decedent, or
13 a county medical examiner or other public official having temporary
14 custody of the decedent, sending or causing to be sent to a person
15 or establishment licensed under this article the remains of a
16 deceased person without having first made inquiry as to the desires
17 of the person with authority over the disposal of the remains of
18 the decedent under section 3206 of the estates and protected
19 individuals code, 1998 PA 386, MCL 700.3206, and of the person that
20 may be chargeable with the funeral expenses of the decedent. If a
21 person with authority over the disposal of the remains of the
22 decedent under section 3206 of the estates and protected
23 individuals code, 1998 PA 386, MCL 700.3206, is found, the person's
24 authority and directions shall govern the disposal of the remains
25 of the decedent.

26 (o) If a licensee, receiving remains in violation of the
27 requirements of subdivision (n) and making a charge for a service
28 in connection with the remains before the delivery of the remains
29 as stipulated by the person with authority over the disposal of the

1 remains of the decedent under section 3206 of the estates and
 2 protected individuals code, 1998 PA 386, MCL 700.3206. This
 3 subdivision ~~shall~~**does** not ~~prevent~~**prohibit** a person or
 4 establishment licensed under this article from charging and being
 5 reimbursed for services rendered in connection with the removal of
 6 the remains of a deceased person ~~in case of~~**if the person's death**
 7 **was** accidental or violent, ~~death,~~ and rendering necessary services
 8 required until the person with authority over the disposal of the
 9 remains of the decedent under section 3206 of the estates and
 10 protected individuals code, 1998 PA 386, MCL 700.3206, or the
 11 person that is chargeable with the funeral expenses is notified.

12 (p) If a funeral establishment or a licensee, entering ~~upon~~
 13 **into** an agreement, directly or indirectly, in which the practice of
 14 embalming or funeral directing is to be rendered in consideration
 15 for the funeral establishment, ~~licensed person,~~**licensee**, or an
 16 agent, assistant, or representative of the establishment or
 17 ~~licensed person,~~**licensee**, being designated as beneficiary in an
 18 insurance policy or certificate. This subdivision does not govern
 19 or limit the authority of a personal representative, trustee, or
 20 other person that has a fiduciary relationship with the deceased.

21 (q) Failure to comply with part 138 of the public health code,
 22 1978 PA 368, MCL 333.13801 to 333.13832.

23 (r) Failure to comply with the prepaid funeral and cemetery
 24 sales act, 1986 PA 255, MCL 328.211 to 328.235.

25 (2) The department, in consultation with the director of
 26 ~~public health,~~**the department of health and human services**, shall
 27 promulgate rules to prescribe training standards for licensees and
 28 nonlicensees that handle medical waste in a funeral establishment.

29 (3) A licensee that owns or operates a funeral establishment

1 shall train its employees in accordance with the rules promulgated
2 under subsection (2).

3 **(4) A licensee must not receive a commission for referring a**
4 **consumer to a crematory, mausoleum, or cemetery unless the**
5 **commission is disclosed to the consumer in writing before the**
6 **referral is made.**

7 Enacting section 1. This amendatory act does not take effect
8 unless all of the following bills of the 102nd Legislature are
9 enacted into law.

10 (a) Senate Bill No. 445.

11

12 (b) Senate Bill No. 446.