Chapter 614

(Senate Bill 895)

AN ACT concerning

Maryland State Board of Morticians and Funeral Directors – Permits and Registration Required to Remove and Transport Human Remains

FOR the purpose of requiring a mortuary transport service to hold a permit issued by the Maryland State Board of Morticians and Funeral Directors before removing or transporting human remains in this State; ~~authorizing the Board to restrict the operations of certain permit holders;~~ establishing certain application requirements for obtaining a permit; requiring a mortuary transport service to meet certain standards to qualify for a permit; requiring permit holders to use vehicles that have passed an inspection by certain inspectors; requiring certain permit holders to employ only certain registered transporters for certain purposes; establishing the term and procedures for the renewal of a permit; requiring that certain signs and advertisements display the name that appears on a permit; requiring that individuals employed by certain permit holders be registered with the Board before removing and transporting human remains; establishing certain requirements for obtaining registration; requiring the Board to register an individual who meets certain standards; requiring that registered transporters treat certain decedents with certain dignity and display a certain permit; authorizing the Board to deny a permit or registration to an applicant, reprimand a permit holder or registered transporter, or suspend or revoke a permit or registration under certain circumstances; providing for certain criminal and civil penalties; requiring the Board to adopt certain regulations; defining certain terms; and generally relating to the Maryland State Board of Morticians and Funeral Directors and requiring permits and registration for removing and transporting human remains.

BY renumbering
Article – Health Occupations
Section 7–601 and 7–602, respectively, and the subtitle "Subtitle 6. Short Title; Termination of Title"
to be Section 7–701 and 7–702, respectively, and the subtitle "Subtitle 7. Short Title; Termination of Title"
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

BY repealing and reenacting, without amendments,
Article – Health Occupations
Section 7–101(a), (d), (k), (l), and (p)
Annotated Code of Maryland

(2009 Replacement Volume and 2011 Supplement)

BY adding to
Article – Health Occupations
Section 7–601 through ~~7–606~~ 7–607 to be under the new subtitle "Subtitle 6. Mortuary Transport Services"
Annotated Code of Maryland
(2009 Replacement Volume and 2011 Supplement)

SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND, That Section(s) 7–601 and 7–602, respectively, and the subtitle "Subtitle 6. Short Title; Termination of Title" of Article – Health Occupations of the Annotated Code of Maryland be renumbered to be Section(s) 7–701 and 7–702, respectively, and the subtitle "Subtitle 7. Short Title; Termination of Title".

SECTION 2. AND BE IT FURTHER ENACTED, That the Laws of Maryland read as follows:

Article – Health Occupations

7–101.

(a) In this title the following words have the meanings indicated.

(d) "Board" means the Maryland State Board of Morticians and Funeral Directors.

(k) "Funeral establishment" means any building, structure, or premises from which the business of practicing mortuary science is conducted.

(l) (1) "Human remains" means:

(i) The body of a deceased person; or

(ii) A part of a body or limb that has been removed from a living person.

(2) "Human remains" includes the body or part of a body or limb in any state of decomposition.

(p) "Licensed funeral establishment" means, unless the context requires otherwise, a funeral establishment that is licensed by the Board.

SUBTITLE 6. MORTUARY TRANSPORT SERVICES.

7–601.

(A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS INDICATED.

(B) (1) "MORTUARY TRANSPORT SERVICE" MEANS AN INDIVIDUAL OR A BUSINESS ENTITY THAT, FOR COMPENSATION, REMOVES AND TRANSPORTS HUMAN REMAINS OR EMPLOYS A TRANSPORTER TO REMOVE OR TRANSPORT HUMAN REMAINS.

(2) "MORTUARY TRANSPORT SERVICE" DOES NOT INCLUDE ~~A~~:

(I) A LICENSED FUNERAL ESTABLISHMENT OR AN EMPLOYEE OF A LICENSED FUNERAL ESTABLISHMENT THAT REMOVES AND TRANSPORTS HUMAN REMAINS; OR

(II) A CEMETERY OR AN EMPLOYEE OF A CEMETERY THAT REMOVES OR TRANSPORTS HUMAN REMAINS WITHIN THE BOUNDARIES OF THE CEMETERY.

(C) "PERMIT" MEANS A PERMIT ISSUED BY THE BOARD TO THE OWNER OF A MORTUARY TRANSPORT SERVICE TO OPERATE IN THE STATE.

(D) "PERMIT HOLDER" MEANS A MORTUARY TRANSPORT SERVICE THAT HOLDS A PERMIT ISSUED BY THE BOARD.

(E) "REGISTERED TRANSPORTER" MEANS AN INDIVIDUAL EMPLOYEE OF A MORTUARY TRANSPORT SERVICE WHO HAS REGISTERED WITH THE BOARD TO REMOVE AND TRANSPORT HUMAN REMAINS.

(F) "REMOVE AND TRANSPORT HUMAN REMAINS" MEANS TO REMOVE HUMAN REMAINS FROM ONE LOCATION AND TRANSPORT THE HUMAN REMAINS TO ANOTHER LOCATION.

(G) "TRANSPORTER" MEANS AN INDIVIDUAL WHO REMOVES AND TRANSPORTS HUMAN REMAINS.

7–602.

(A) ~~(1)~~ A MORTUARY TRANSPORT SERVICE SHALL BE ISSUED A PERMIT BY THE BOARD BEFORE THE MORTUARY TRANSPORT SERVICE MAY REMOVE AND TRANSPORT HUMAN REMAINS IN THIS STATE.

~~(2) A PERMIT HOLDER MAY BE RESTRICTED TO OPERATIONS TO REMOVE AND TRANSPORT HUMAN REMAINS AS DETERMINED BY THE BOARD.~~

(B) (1) TO APPLY FOR A PERMIT, A MORTUARY TRANSPORT SERVICE SHALL SUBMIT TO THE BOARD:

(I) AN APPLICATION ON THE FORM THAT THE BOARD REQUIRES;

(II) AN APPLICATION FEE SET BY THE BOARD; AND

(III) EVIDENCE THAT THE MORTUARY TRANSPORT SERVICE ~~HOLDS A BOND AT THE TIME OF APPLICATION OR HAS THE ABILITY TO SECURE A BOND~~ IS BONDED AND CARRIES LIABILITY INSURANCE THAT COVERS EACH REGISTERED TRANSPORTER EMPLOYED BY THE MORTUARY TRANSPORT SERVICE.

(2) AN APPLICATION FOR A PERMIT SHALL BE SIGNED BY AN INDIVIDUAL WHO IS THE OWNER OR A CO–OWNER OF THE MORTUARY TRANSPORT SERVICE TO BE ISSUED A PERMIT.

(C) TO QUALIFY FOR A PERMIT, A MORTUARY TRANSPORT SERVICE SHALL SATISFY THE BOARD THAT THE MORTUARY TRANSPORT SERVICE:

(1) HAS COMPLIED WITH ALL APPLICABLE STATE AND LOCAL LAWS;

(2) WILL BE OWNED AND OPERATED IN ACCORDANCE WITH THIS SUBTITLE; AND

(3) WHILE THE MORTUARY TRANSPORT SERVICE REMOVES AND TRANSPORTS HUMAN REMAINS, WILL BE HELD RESPONSIBLE FOR THE TREATMENT OF THE HUMAN REMAINS.

(D) (1) A PERMIT HOLDER SHALL USE VEHICLES THAT HAVE PASSED AN INSPECTION BY AN INSPECTOR DESIGNATED BY THE BOARD WHILE THE PERMIT HOLDER REMOVES AND TRANSPORTS HUMAN REMAINS.

(2) A PERMIT HOLDER SHALL EMPLOY ONLY REGISTERED TRANSPORTERS TO REMOVE AND TRANSPORT HUMAN REMAINS.

(E) (1) (I) A PERMIT ISSUED UNDER THIS SUBTITLE SHALL EXPIRE ON THE DATE SET BY THE BOARD.

(II) A PERMIT MAY NOT BE RENEWED FOR A TERM LONGER THAN 2 YEARS.

(2) A PERMIT HOLDER MAY RENEW A PERMIT FOR ADDITIONAL TERMS, IF THE PERMIT HOLDER:

(I) SUBMITS TO THE BOARD:

1. AN APPLICATION ON THE FORM THAT THE BOARD REQUIRES; AND

2. AN APPLICATION FEE SET BY THE BOARD; AND

(II) COMPLIES WITH ANY OTHER RENEWAL REQUIREMENTS ESTABLISHED BY THE BOARD.

(F) SIGNS AND ADVERTISEMENTS FOR A MORTUARY TRANSPORT SERVICE SHALL DISPLAY THE NAME OF THE MORTUARY TRANSPORT SERVICE AS IT APPEARS ON THE PERMIT.

7–603.

(A) AN INDIVIDUAL EMPLOYED BY A PERMIT HOLDER SHALL BE REGISTERED WITH THE BOARD AS A TRANSPORTER BEFORE THE INDIVIDUAL MAY REMOVE AND TRANSPORT HUMAN REMAINS.

(B) TO REGISTER AS A TRANSPORTER, AN INDIVIDUAL SHALL SUBMIT TO THE BOARD:

(1) A SIGNED APPLICATION ON THE FORM THAT THE BOARD REQUIRES; ~~AND~~

~~(2) A REGISTRATION FEE SET BY THE BOARD;~~

(2) A CRIMINAL HISTORY RECORDS CHECK; AND

~~(3)~~ ~~(2)~~ *(3)* EVIDENCE OF THE COMPLETION OF COURSEWORK RECOMMENDED BY THE BOARD~~; AND~~

~~(4) EVIDENCE THAT THE INDIVIDUAL IS BONDED AND CARRIES LIABILITY INSURANCE~~.

(C) THE BOARD SHALL REGISTER AN INDIVIDUAL WHO:

(1) HOLDS A VALID ~~MARYLAND~~ DRIVER'S LICENSE; AND

(2) HAS COMPLIED WITH ALL APPLICABLE STATE AND LOCAL LAWS.

(D) WHILE A REGISTERED TRANSPORTER REMOVES AND TRANSPORTS HUMAN REMAINS OR OTHERWISE ACTS IN THE CAPACITY OF A REGISTERED TRANSPORTER, THE REGISTERED TRANSPORTER SHALL:

(1) TREAT EVERY DECEDENT WITH THE UTMOST DIGNITY; AND

(2) PROMINENTLY DISPLAY ON THEIR PERSON THE PERMIT FOR THE MORTUARY TRANSPORT SERVICE FOR WHICH THE TRANSPORTER IS EMPLOYED.

7–604.

SUBJECT TO THE HEARING PROVISIONS OF § 7–319 OF THIS TITLE, THE BOARD MAY DENY A PERMIT OR REGISTRATION TO ANY APPLICANT, REPRIMAND ANY PERMIT HOLDER OR REGISTERED TRANSPORTER, PLACE ANY PERMIT HOLDER OR REGISTERED TRANSPORTER ON PROBATION, OR SUSPEND OR REVOKE ANY PERMIT OR REGISTRATION IF THE APPLICANT, PERMIT HOLDER, OR REGISTERED TRANSPORTER:

(1) FRAUDULENTLY OR DECEPTIVELY OBTAINS OR ATTEMPTS TO OBTAIN A PERMIT OR REGISTRATION FOR THE APPLICANT, PERMIT HOLDER, REGISTERED TRANSPORTER, OR ANOTHER;

(2) FRAUDULENTLY OR DECEPTIVELY USES A PERMIT OR REGISTRATION;

(3) COMMITS FRAUD OR MISREPRESENTATION WHILE THE APPLICANT, PERMIT HOLDER, OR REGISTERED TRANSPORTER REMOVES AND TRANSPORTS HUMAN REMAINS;

(4) IS CONVICTED OF OR PLEADS GUILTY OR NOLO CONTENDERE TO A FELONY OR TO A CRIME INVOLVING MORAL TURPITUDE, WHETHER OR NOT ANY APPEAL OR OTHER PROCEEDING IS PENDING TO HAVE THE CONVICTION OR PLEA SET ASIDE;

(5) AIDS OR ABETS AN UNAUTHORIZED PERSON TO REMOVE AND TRANSPORT HUMAN REMAINS;

(6) ADVERTISES FALSELY OR IN A MISLEADING MANNER;

(7) SOLICITS TO REMOVE AND TRANSPORT HUMAN REMAINS, EITHER PERSONALLY OR BY AN AGENT, FROM A DYING INDIVIDUAL OR THE RELATIVES OF A DEAD OR DYING INDIVIDUAL, OTHER THAN THROUGH GENERAL ADVERTISING;

(8) EMPLOYS, PAYS, OR OFFERS TO PAY A "CAPPER", "STEERER", "SOLICITOR", OR ANY OTHER PERSON TO OBTAIN BUSINESS, EITHER IN GENERAL OR FOR A PERMIT HOLDER OR REGISTERED TRANSPORTER;

(9) DIRECTLY OR INDIRECTLY PAYS OR OFFERS TO PAY TO OBTAIN BUSINESS TO REMOVE AND TRANSPORT HUMAN REMAINS;

(10) SOLICITS OR ACCEPTS ANY PAYMENT OR REBATE FOR RECOMMENDING ANY CREMATORY, MAUSOLEUM, OR CEMETERY OR CAUSING HUMAN REMAINS TO BE DISPOSED OF THERE;

(11) REFUSES TO SURRENDER CUSTODY OF HUMAN REMAINS ON THE DEMAND OF A PERSON WHO IS ENTITLED TO THEIR CUSTODY;

(12) SELLS OR OFFERS TO SELL ANY SHARE, CERTIFICATE, OR INTEREST IN A MORTUARY TRANSPORT SERVICE WITH A PROMISE OR OFFER TO PERFORM SERVICES TO THE BUYER AT A COST LESS THAN THAT OFFERED TO THE GENERAL PUBLIC;

(13) VIOLATES ANY STATE, MUNICIPAL, OR COUNTY LAW, RULE, OR REGULATION ON THE HANDLING, CUSTODY, CARE, OR TRANSPORTATION OF HUMAN REMAINS OR THE DISPOSAL OF INSTRUMENTS, MATERIALS, AND WASTES RELEVANT TO PREPARATION OF HUMAN REMAINS FOR FINAL DISPOSITION;

(14) REMOVES AND TRANSPORTS HUMAN REMAINS UNDER A NAME OTHER THAN THE NAME THAT APPEARS ON THE PERMIT OR REGISTRATION OF THE PERMIT HOLDER OR REGISTERED TRANSPORTER;

(15) SIGNS AN APPLICATION FOR A PERMIT OR REGISTRATION IF THE SIGNER KNEW OR SHOULD HAVE KNOWN THAT GROUNDS EXISTED FOR WHICH THE PERMIT OR REGISTRATION LATER WAS DENIED, SUSPENDED, OR REVOKED;

(16) VIOLATES ANY PROVISION OF THIS SUBTITLE OR OF ANY OTHER LAW RELATING TO REMOVING AND TRANSPORTING HUMAN REMAINS;

(17) IS DISCIPLINED BY A LICENSING OR DISCIPLINARY AUTHORITY OF ANY OTHER STATE OR COUNTRY OR CONVICTED OR DISCIPLINED BY A COURT OF ANY STATE OR COUNTRY FOR AN ACT THAT WOULD BE GROUNDS FOR DISCIPLINARY ACTION UNDER THE BOARD'S DISCIPLINARY STATUTES;

(18) WILLFULLY MAKES OR FILES A FALSE REPORT OR RECORD FOR A MORTUARY TRANSPORT SERVICE;

(19) WILLFULLY FAILS TO FILE OR RECORD ANY REPORT AS REQUIRED UNDER LAW, WILLFULLY IMPEDES OR OBSTRUCTS THE FILING OR RECORDING OF THE REPORT, OR INDUCES ANOTHER TO FAIL TO FILE OR RECORD THE REPORT;

(20) SUBMITS A FALSE STATEMENT TO COLLECT A FEE;

(21) PROVIDES PROFESSIONAL SERVICES WHILE:

(I) UNDER THE INFLUENCE OF ALCOHOL; OR

(II) USING ANY NARCOTIC OR CONTROLLED DANGEROUS SUBSTANCE, AS DEFINED IN § 5–101 OF THE CRIMINAL LAW ARTICLE, OR OTHER DRUG THAT IS IN EXCESS OF THERAPEUTIC AMOUNTS OR WITHOUT VALID MEDICAL INDICATION;

(22) VIOLATES ANY RULE OR REGULATION ADOPTED BY THE BOARD;

(23) IS PROFESSIONALLY, PHYSICALLY, OR MENTALLY INCOMPETENT;

(24) COMMITS AN ACT OF UNPROFESSIONAL CONDUCT WHILE REMOVING AND TRANSPORTING HUMAN REMAINS;

(25) REFUSES, WITHHOLDS FROM, DENIES, OR DISCRIMINATES AGAINST AN INDIVIDUAL WITH REGARD TO THE PROVISION OF PROFESSIONAL SERVICES FOR WHICH THE PERMIT HOLDER OR REGISTERED TRANSPORTER IS QUALIFIED TO RENDER BECAUSE THE INDIVIDUAL IS HIV POSITIVE;

(26) EXCEPT IN AN EMERGENCY LIFE–THREATENING SITUATION WHERE IT IS NOT FEASIBLE OR PRACTICABLE, FAILS TO COMPLY WITH THE CENTERS FOR DISEASE CONTROL AND PREVENTION'S GUIDELINES ON UNIVERSAL PRECAUTIONS;

~~(27) TAKES HUMAN REMAINS OUT OF THE STATE TO A FUNERAL ESTABLISHMENT, MORTUARY, OR CREMATORY NOT PERMITTED TO BE INSPECTED BY THE BOARD;~~

~~(28)~~ (27) REMOVES HUMAN REMAINS FROM A DEATH SCENE, MORTUARY, FUNERAL ESTABLISHMENT, OR CREMATORY WITHOUT AUTHORIZATION OF THE INDIVIDUAL OR ENTITY IN CUSTODY OF THE HUMAN REMAINS;

~~(29)~~ (28) REMOVES AND TRANSPORTS HUMAN REMAINS, EITHER FREE OF CHARGE OR FOR COMPENSATION, TO AN ENTITY WHERE THE HUMAN REMAINS ARE NOT AUTHORIZED TO BE HELD; OR

~~(30)~~ (29) REMOVES AND TRANSPORTS HUMAN REMAINS WITHOUT RESPECT FOR THE DECEDENT OR THE HEALTH AND SAFETY OF THE PUBLIC.

7–605.

(A) (1) UNLESS AN INDIVIDUAL OR ENTITY HOLDS A CURRENT PERMIT ISSUED BY THE BOARD UNDER THIS SUBTITLE, THE INDIVIDUAL OR ENTITY MAY NOT REPRESENT TO THE PUBLIC BY NAME, DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL OR ENTITY IS A PERMIT HOLDER.

(2) UNLESS AN INDIVIDUAL OR ENTITY HOLDS A CURRENT PERMIT ISSUED BY THE BOARD UNDER THIS SUBTITLE, AN INDIVIDUAL OR ENTITY MAY NOT USE THE WORDS "PERMITTED MORTUARY TRANSPORT SERVICE" OR "MORTUARY TRANSPORT SERVICE" WITH THE INTENT TO REPRESENT THAT THE INDIVIDUAL OR ENTITY IS AUTHORIZED TO OPERATE AS A PERMIT HOLDER.

(B) (1) UNLESS AN INDIVIDUAL IS REGISTERED BY THE BOARD UNDER THIS SUBTITLE, THE INDIVIDUAL MAY NOT REPRESENT TO THE PUBLIC BY NAME, DESCRIPTION OF SERVICES, METHODS, OR PROCEDURES, OR OTHERWISE, THAT THE INDIVIDUAL IS A REGISTERED TRANSPORTER.

(2) UNLESS AN INDIVIDUAL IS REGISTERED BY THE BOARD UNDER THIS SUBTITLE, THE INDIVIDUAL MAY NOT USE THE TERMS "REGISTERED TRANSPORTER" OR "TRANSPORTER" WITH THE INTENT TO REPRESENT THAT THE INDIVIDUAL IS AUTHORIZED TO OPERATE AS A REGISTERED TRANSPORTER.

(C) (1) A MORTUARY TRANSPORT SERVICE OR TRANSPORTER MAY NOT OBTAIN A PERMIT OR REGISTRATION BY MAKING A FALSE STATEMENT.

(2) ON CONVICTION OF AN INDIVIDUAL FOR MAKING A FALSE REPRESENTATION TO THE BOARD IN ORDER TO OBTAIN A PERMIT OR REGISTRATION, THE PERMIT OR REGISTRATION IS VOID.

~~**(D) A PERMIT HOLDER IS LIABLE FOR A VIOLATION OF ANY PROVISION OF THIS SUBTITLE COMMITTED BY A REGISTERED TRANSPORTER IF:**~~

~~**(1) THE OWNER OR CO–OWNER OF THE MORTUARY TRANSPORT SERVICE WAS A KNOWING PARTY TO THE VIOLATION; OR**~~

~~**(2) THE VIOLATION OCCURRED WHILE THE REGISTERED TRANSPORTER WAS EMPLOYED BY THE PERMIT HOLDER.**~~

7–606.

A PERSON WHO VIOLATES ANY PROVISION OF THIS SUBTITLE IS GUILTY OF A MISDEMEANOR AND ON CONVICTION IS SUBJECT TO A FINE NOT EXCEEDING $500 OR IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH.

7–607.

THE BOARD SHALL ADOPT REGULATIONS TO:

(1) IMPLEMENT THIS SUBTITLE; AND

(2) ESTABLISH REQUIREMENTS FOR REMOVING AND TRANSPORTING HUMAN REMAINS.

SECTION 3. AND BE IT FURTHER ENACTED, That this Act shall take effect October 1, 2012.

Approved by the Governor, May 22, 2012.