



Senate Fiscal Agency
P.O. Box 30036
Lansing, Michigan 48909-7536



Telephone: (517) 373-5383
Fax: (517) 373-1986

Senate Bill 696 (Substitute S-1 as passed by the Senate)
Sponsor: Senator Rick Outman
Committee: Regulatory Reform

Date Completed: 2-27-20

RATIONALE

Currently, the Administrative Code requires a funeral establishment to have in its direct employment a mortuary science licensee who is designated as the establishment's manager. The manager must be employed on a full-time basis and must be available at all times for funeral-related duties. The manager also must reside within one hour's normal commuting time from the establishment, and may not manage more than one funeral establishment. Apparently, while these rules have served the industry well in the past, they currently are restrictive for communities that do not have many funeral services available, such as rural or small municipalities. Specifically, a funeral establishment that serves a small population may not generate enough revenue to support a full-time licensed funeral director. In order to ensure that rural and small communities continue to have access to funeral services, it has been suggested that new provisions be enacted to relieve those licensees operating funeral establishments in those locations of the potential burden that the current rules may create.

CONTENT

The bill would amend Article 18 (Mortuary Science) of the Occupational Code to do the following:

- Delete several existing requirements for funeral establishments and their owners.**
- Require a manager or branch manager of a funeral establishment to ensure that it complied with all applicable laws.**
- Prohibit a manger of a funeral establishment from residing more than 75 miles from that establishment.**
- Prohibit an individual from managing more than one funeral establishment, unless he or she received a waiver.**
- Require a funeral establishment to notify the Department of Licensing and Regulatory Affairs (LARA) in writing when a new manager was appointed not more than 30 days after that appointment.**
- Require the Board of Examiners in Mortuary Science to establish a panel to receive and approve or deny requests for waivers to allow an individual to act as the manager of two funeral establishments.**
- Prescribe the waiver process for a person who requested to act as the manager of two funeral establishments.**

The bill would take effect 90 days after it was enacted.

Under the Code, a funeral establishment must be managed by an individual who is the holder of a license for the practice of mortuary science.

The establishment must have conspicuously displayed at its entrance the name of the person licensed to conduct the establishment. The name of the person owning the funeral establishment

must be registered with LARA. Failure to make full and complete disclosure of the owners is grounds for revocation of the establishment license. The bill would delete these provisions.

Under the bill, all of the following would apply to the ownership and management of a funeral establishment:

- The manager would have to ensure that the funeral establishment complied with all applicable laws.
- A funeral establishment would have to notify LARA in writing of the name of the individual appointed as the manager of the funeral establishment and conspicuously display the name of the manager at the entrance of the funeral establishment.
- A manager of a funeral establishment could not reside more than 75 miles from that funeral establishment.
- Except as otherwise provided below, an individual could not manage more than one funeral establishment.
- If a new manager were appointed for a funeral establishment, the establishment would have to notify LARA in writing of the new manager's name not more than 30 days after the date of his or her appointment.

The Board of Examiners in Mortuary Science would have to establish a panel to receive and approve or deny requests for waivers to allow an individual to act as the manager of two funeral establishments. The panel would have to be comprised of the chair of the Board, or his or her designee, and two or more Board members.

The prospective manager would have to request the waiver. The request would have to include the following:

- The prospective manager's name and mortuary science license number.
- The name and license number of each funeral establishment affected.
- Documentation supporting the existence of the factors listed below.

The panel could not grant a waiver unless all of the following factors were met:

- The funeral establishments were located in the same county or contiguous counties.
- The population density of the county in which each of the funeral establishments was located was less than the population density for the State, based on data from the most recent decennial census.
- The funeral establishments were located within 90 miles of each other.

If the panel denied a request for a waiver, the individual who requested it could submit a request to the Director of LARA for a review of the panel's decision. All of the following would apply to a review:

- The Director could not consider a request for a review that was received by the Director more than 30 days after the mailing date of the panel's decision to deny the waiver.
- The request for a review would have to be in writing and include the factor or factors described above that supported a waiver.
- The Director would have to conduct a review in a manner that was consistent with Article 5 (Lodging or Filing a Complaint) of the Code.
- After reviewing the panel's decision, the Director could overturn or uphold the decision, and the Director's decision would be final.

In addition, the bill would require a branch establishment manager to ensure that the establishment complied with all applicable laws.

MCL 339.1801 & 339.1809

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

Local access to funeral and memorial services is essential for Michigan residents. However, population shifts, market trends, and State rules are threatening funeral establishments located in rural and small municipalities. The current requirement for each funeral establishment to have a full-time, designated licensed manager who always is available and restricted to operating only one establishment ensures proper and quality oversight over that establishment. However, for those locations in Michigan where funeral services are used less frequently, these rules may be difficult to follow, as the establishment may not generate sufficient revenue to cover the costs associated with employing a full-time funeral director assigned to that location. By providing a licensee the ability to petition the State Board of Examiners in Mortuary Science to manage a second facility, the bill would provide those licensees the opportunity to generate more revenue and continue offering services to the communities in which their funeral establishments are located.

Legislative Analyst: Drew Krogulecki

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Elizabeth Raczkowski

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.