

# SENATE BILL No. 302

May 7, 1991, Introduced by Senators PRIDNIA, KELLY,  
KOIVISTO, CHERRY, HONIGMAN and CARL and referred  
to the Committee on Health Policy.

A bill to amend sections 1801, 1803, 1804, 1805, 1808, 1809,  
1810, 1811, and 1812 of Act No. 299 of the Public Acts of 1980,  
entitled as amended

"Occupational code,"

section 1808 as amended by Act No. 463 of the Public Acts of 1988  
and section 1810 as amended by Act No. 15 of the Public Acts of  
1990, being sections 339.1801, 339.1803, 339.1804, 339.1805,  
339.1808, 339.1809, 339.1810, 339.1811, and 339.1812 of the  
Michigan Compiled Laws.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Section 1. Sections 1801, 1803, 1804, 1805, 1808, 1809,  
2 1810, 1811, and 1812 of Act No. 299 of the Public Acts of 1980,  
3 section 1808 as amended by Act No. 463 of the Public Acts of 1988  
4 and section 1810 as amended by Act No. 15 of the Public Acts of  
5 1990, being sections 339.1801, 339.1803, 339.1804, 339.1805,

1 339.1808, 339.1809, 339.1810, 339.1811, and 339.1812 of the  
2 Michigan Compiled Laws, are amended to read as follows:

3 Sec. 1801. As used in this article:

4 (a) "Funeral establishment" means a place of business used  
5 in the care and preparation for burial or transportation of a  
6 dead human body, or a place where a person represents that ~~the~~  
7 ~~person~~ HE OR SHE is engaged in the ~~profession of undertaking or~~  
8 ~~the~~ practice of mortuary science.

9 (b) "Holder of a license for the practice of mortuary  
10 science" means a person who satisfactorily completes a course in  
11 mortuary science, who passes an examination prescribed in this  
12 article, serves the required resident training, and is issued a  
13 license for the practice of mortuary science.

14 (c) "Practice of embalming" means the disinfecting or pre-  
15 serving of a dead human body, entirely or in part, by the use of  
16 a chemical substance, fluid, or gas in the body or by the intro-  
17 duction of the chemical substance, fluid, or gas into the body by  
18 a vascular or hypodermic injection, or by direct application into  
19 an organ or cavity.

20 (d) "Practice of funeral directing" means engaging in or  
21 representing oneself as engaging in the supervising of the burial  
22 and disposal of a dead human body ~~—~~ AND MAY INCLUDE THE main-  
23 taining OF a funeral establishment for the preparation, disposi-  
24 tion, and care of a dead human body. ~~— or using, in connection~~  
25 ~~with the user's name or funeral establishment, the word "funeral~~  
26 ~~director", "undertaker", "mortician", or any other title~~

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

3 (e) "Practice of mortuary science" means the practice of  
4 embalming ~~, or the practice of~~ OR funeral directing, or both.  
5 PRACTICE OF MORTUARY SCIENCE DOES NOT INCLUDE ACTIVITIES THAT ARE  
6 PURELY ADMINISTRATIVE AND MINISTERIAL WHICH DO NOT INVOLVE THE  
7 DIRECT CARE, PREPARATION, BURIAL, AND DISPOSAL OF A DEAD HUMAN  
8 BODY.

9 (f) "Resident trainee" means a person who is engaged in  
10 learning the practice of embalming, ~~or~~ funeral directing, or  
11 ~~the practice of~~ mortuary science under the instruction and per-  
12 sonal supervision of a holder of a license for the practice of  
13 mortuary science in this state.

14 Sec. 1803. (1) ~~The placing of a chemical on or in a dead~~  
15 ~~human body by a person who is not the holder of a license for the~~  
16 ~~practice of mortuary science is a violation of this article.~~  
17 ~~This article shall not apply to a resident trainee working under~~  
18 ~~the supervision of a holder of a license for the practice of mor-~~  
19 ~~tuary science.~~ A person who is engaged in the practice of  
20 embalming, or who professes to be engaged in that practice, or  
21 who represents that ~~the person~~ HE OR SHE is an embalmer shall  
22 be the holder of a license for the practice of mortuary science.

23 (2) A PERSON ACTING AS A RESIDENT TRAINEE IN COMPLIANCE WITH  
24 SECTION 1808 IS OTHERWISE EXEMPT FROM THE LICENSE REQUIREMENTS OF  
25 THIS ARTICLE.

26 (3) A PERSON EMPLOYED BY A FUNERAL ESTABLISHMENT WHO IS  
27 ENGAGED IN ACTIVITIES THAT ARE PURELY MINISTERIAL AND

1 ADMINISTRATIVE WHICH DO NOT INVOLVE THE DIRECT CARE, PREPARATION,  
2 BURIAL, OR DISPOSAL OF A DEAD HUMAN BODY IS EXEMPT FROM THE  
3 LICENSURE REQUIREMENTS OF THIS ARTICLE.

4       Sec. 1804. (1) ~~An individual whose name appears in connec-~~  
5 ~~tion with that of a funeral establishment shall be considered as~~  
6 ~~actively engaged in the practice of funeral directing or the~~  
7 ~~practice of mortuary science and shall be the holder of a license~~  
8 ~~for the practice of mortuary science. If a funeral establishment~~  
9 ~~is a corporation or partnership, each active member of the corpo-~~  
10 ~~ration or partnership, together with each individual whose name~~  
11 ~~appears or is used in connection with the name of the corporation~~  
12 ~~or partnership, shall be the holder of a license for the practice~~  
13 ~~of mortuary science.~~ A PERSON SHALL NOT USE THE TERM "FUNERAL  
14 DIRECTOR", "UNDERTAKER", "MORTICIAN", ANY TITLE EMBODYING THE  
15 TERM "MORTUARY SCIENCE", OR A SIMILAR TERM WHICH TENDS IN ANY WAY  
16 TO CONNOTE QUALIFICATION OR LICENSURE OF AN INDIVIDUAL UNDER THIS  
17 ARTICLE WITHOUT POSSESSING AN APPROPRIATE LICENSE ISSUED PURSUANT  
18 TO THIS ARTICLE. A SOLE PROPRIETORSHIP, PARTNERSHIP, ASSOCIA-  
19 TION, CORPORATION, OR OTHER LEGAL ENTITY SHALL NOT USE THESE  
20 TERMS OR SIMILAR TERMS IN A FIRM NAME OR DESCRIPTION UNLESS AN  
21 INDIVIDUAL LICENSED PURSUANT TO THIS ARTICLE IS AN OFFICER, PRIN-  
22 CIPAL, OR EMPLOYEE OF THE ENTITY AND THAT INDIVIDUAL ACTUALLY  
23 PERFORMS OR SUPERVISES THOSE ACTIVITIES FOR WHICH LICENSURE IS  
24 REQUIRED UNDER THIS ARTICLE.

25       (2) ~~This article shall not prevent a~~ A funeral establish-  
26 ~~ment from using or continuing~~ MAY USE OR CONTINUE to use ~~an~~  
27 EITHER OF THE FOLLOWING:

1 (A) AN otherwise lawful corporate or partnership name after  
2 the death or retirement of a member if ~~each~~ AN active member or  
3 employee is properly licensed under this article.

4 (B) AN OTHERWISE LAWFUL CORPORATE OR PARTNERSHIP NAME EVEN  
5 THOUGH IT DOES NOT CONTAIN THE NAME OF AN INDIVIDUAL WHO IS PROP-  
6 ERLY LICENSED UNDER THIS ARTICLE.

7 Sec. 1805. A person licensed under this article may  
8 ~~disinfect or preserve a dead human body, entirely or in part, by~~  
9 ~~the use of a chemical substance, fluid, or gas in the body of by~~  
10 ~~the introduction of a chemical, substance, fluid, or gas into the~~  
11 ~~body by a vascular or hypodermic injection, or by direct applica-~~  
12 ~~tion into an organ or cavity in preparation for burial or~~  
13 ~~disposal~~ ENGAGE IN THE PRACTICE OF EMBALMING. ~~The~~ THAT  
14 person, IN ADDITION TO ANY OTHER PERSON AUTHORIZED UNDER THIS  
15 ARTICLE, may direct the burial or disposal of a dead human body  
16 and may maintain a funeral establishment for the preparation and  
17 disposition, or for the care of a dead human body. ~~and may, in~~  
18 ~~connection with the person's name or the name of the funeral~~  
19 ~~establishment use the words "funeral director", "undertaker",~~  
20 ~~"mortician", "mortuary science", or a word of similar meaning as~~  
21 ~~approved by the department.~~

22 Sec. 1808. (1) The department shall issue a license as a  
23 resident trainee to an individual who is of good moral character  
24 and possesses a high school diploma or its equivalent. Resident  
25 training shall be served only under the sponsorship and in the  
26 licensed funeral establishment UNDER THE PERSONAL SUPERVISION of  
27 the holder of a license for the practice of mortuary science

1 CHARGED WITH THE DIRECT SUPERVISION OF ACTIVITIES REGULATED BY  
2 THIS ARTICLE AT THE PARTICULAR FUNERAL ESTABLISHMENT OR OTHER  
3 ALLOWABLE LOCATION. When a resident trainee enters the employ of  
4 a person licensed under this article, the trainee immediately  
5 shall notify the department of the name and place of business of  
6 the person whose service the trainee has entered. If a resident  
7 trainee leaves the employ of the person whose service the trainee  
8 has entered, the person shall file with the department a notice  
9 showing the length of time the trainee has served as a resident  
10 trainee. If the resident trainee enters the employ of another  
11 person licensed under this article, the trainee immediately shall  
12 report the employment to the department. Resident training may  
13 be served after satisfactory completion of an accredited school  
14 or college, or professional instruction prescribed by the depart-  
15 ment and the board.

16 (2) A resident trainee licensed as provided in this section  
17 shall ~~be required to~~ report to the department semiannually on  
18 January 15 and July 15 upon a form provided by the department,  
19 showing the work which the trainee completed during the 6 months  
20 preceding the first of the month in which the report is made.  
21 The data contained in the report shall be certified to as its  
22 correctness by the licensee under whom the trainee has served  
23 during that period.

24 (3) Before a resident trainee ~~shall be~~ IS eligible to  
25 engage in the practice of mortuary science, the trainee shall  
26 present, in connection with the other evidence required by this  
27 article, a statement from each holder of a license to practice

1 mortuary science under whom the trainee has trained — showing  
2 that the trainee has embalmed for burial or shipment at least 25  
3 dead human bodies, or has assisted the holder of a license for  
4 the practice of mortuary science in supervising the preparation  
5 of 25 dead human bodies for burial or transportation during the  
6 period of resident training. A resident trainee shall meet other  
7 training or requirements as ~~may be~~ ARE required by rules of the  
8 department and the board.

9 (4) Not more than 1 resident trainee shall be supervised by  
10 a licensee. The supervisor for a trainee shall be actively con-  
11 nected with a funeral establishment.

12 Sec. 1809. (1) A ~~funeral establishment shall be operated~~  
13 ~~by a person who is the~~ holder of a license for the practice of  
14 mortuary science SHALL PERSONALLY SUPERVISE THE ACTIVITIES  
15 REQUIRING LICENSURE UNDER THIS ARTICLE THAT ARE CONDUCTED AT A  
16 FUNERAL ESTABLISHMENT, BRANCH OFFICE OF A FUNERAL ESTABLISHMENT,  
17 OR ANY OTHER LOCATION WITH WHICH SUCH PERSON IS AFFILIATED WHERE  
18 A LICENSEE MAY PRACTICE MORTUARY SCIENCE. HOWEVER, THOSE ACTIVI-  
19 TIES THAT ARE PURELY ADMINISTRATIVE AND MINISTERIAL WHICH DO NOT  
20 INVOLVE DIRECT PREPARATION, CARE, BURIAL, OR DISPOSAL OF A DEAD  
21 HUMAN BODY MAY BE CONDUCTED BY A PERSON NOT LICENSED UNDER THIS  
22 ARTICLE. The FUNERAL establishment shall have conspicuously dis-  
23 played at its entrance the name of the person OR PERSONS licensed  
24 to ~~conduct~~ PERSONALLY SUPERVISE THE ACTIVITIES CONDUCTED AT the  
25 FUNERAL establishment WHICH ARE REGULATED UNDER THIS ARTICLE.  
26 The name of the person OR PERSONS owning AND THE HOLDER OR  
27 HOLDERS OF THE LICENSE FOR THE PRACTICE OF MORTUARY SCIENCE WHO

1 PERSONALLY SUPERVISE THE REGULATED ACTIVITIES IN the funeral  
2 establishment OR OTHER ALLOWABLE LOCATION shall be registered  
3 with the department. Failure to make full and complete disclo-  
4 sure of the owners shall be grounds for the revocation of the  
5 FUNERAL establishment license.

6 (2) A person whose license has been revoked under this arti-  
7 cle shall not operate either directly or indirectly or hold an  
8 interest in a funeral establishment. This subsection shall not  
9 prohibit a person whose license has been revoked from leasing  
10 property owned by the person for use as a funeral establishment  
11 if the person does not participate in the control or profit of  
12 the funeral establishment otherwise than as a lessor of the  
13 premises for a fixed rental not dependent upon earnings.

14 ~~(3) A branch establishment shall be operated by a person~~  
15 ~~who is the holder of a license for the practice of mortuary~~  
16 ~~science.~~

17 (3) ~~(4)~~ The department and the board may inspect the  
18 premises in which ~~funeral directing~~ THE PRACTICE OF MORTUARY  
19 SCIENCE is conducted or ~~where embalming is practiced or~~ where  
20 an applicant proposes to practice THAT ACTIVITY.

21 (4) ~~(5)~~ A funeral establishment shall contain a prepara-  
22 tion room equipped with tile, cement, or composition floor and  
23 necessary drainage and ventilation, and contain each necessary  
24 instrument or supply for the preparation and embalming of a dead  
25 human body for burial, transportation, or other disposition.



1       (5) ~~—(6)—~~ A branch OFFICE OF A FUNERAL establishment shall  
2 comply with each requirement or rule relating to a funeral  
3 establishment.

4       Sec. 1810. (1) A person shall be subject to the penalties  
5 of article 6 if the person commits 1 OR MORE of the following:

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

15       (b) Procuring a person known as capper, steerer, or solici-  
16 tor to obtain ~~funeral directing or embalming~~ SERVICES REGULATED  
17 BY THIS ARTICLE; or allowing or permitting a capper, steerer, or  
18 solicitor to obtain ~~funeral directing or embalming~~ SERVICES  
19 REGULATED BY THIS ARTICLE for a licensed person or funeral  
20 establishment.

21       (c) The OBTAINING OF direct or indirect payment or offer of  
22 payment of a commission by a licensed person or an agent, repre-  
23 sentative, assistant, or employee of the licensed person for the  
24 purpose of securing business.

25       (d) Aiding or abetting an unlicensed person to engage in the  
26 practice of ~~funeral directing or embalming~~ AN ACTIVITY  
27 REGULATED BY THIS ARTICLE.

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

5 (f) Solicitation or acceptance by a licensed person of a  
6 commission or bonus or rebate in consideration of recommending or  
7 causing a dead human body to be disposed of in a crematory, mau-  
8 soleum, or cemetery THAT IS NOT AN AFFILIATE OR EMPLOYER OF THE  
9 LICENSED PERSON.

10 (g) Using a casket or part of a casket which has been previ-  
11 ously used as a receptacle for, or in connection with, the burial  
12 or other disposition of a dead human body.

13 (h) A violation of a state law or municipal or county ordi-  
14 nance or regulation affecting the handling, custody, care, or  
15 transportation of a dead human body.

16 (i) Refusing to promptly surrender the custody of a dead  
17 human body, upon the express order of the person lawfully enti-  
18 tled to the custody.

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

21 (k) Obtaining possession or embalming a dead human body  
22 without first being expressly directed or authorized to do so by  
23 a relative of the deceased person or a person entitled to  
24 custody.

25 (l) Knowingly making a false statement on a certificate of  
26 death.

1 (m) Removing or embalming a dead human body if there is  
2 information indicating crime or violence in connection with the  
3 cause of death, unless permission of the county medical examiner  
4 has first been obtained.

5 (n) If a public officer or employee, an official of a public  
6 institution, convalescent home, private nursing home, maternity  
7 home, public or private hospital, physician or surgeon, or any  
8 other person having a professional relationship with a decedent  
9 or county medical examiner or other public official having tempo-  
10 rary custody of the decedent, sending or causing to be sent to a  
11 person or establishment licensed under this article the remains  
12 of a deceased person without having first made inquiry as to the  
13 desires of the next of kin and of the person who may be charge-  
14 able with the funeral expenses of the decedent. If kin is found,  
15 the person's authority and directions shall govern the disposal  
16 of the remains of the decedent.

17 (o) If a licensee, receiving remains in violation of the  
18 requirements of subdivision (n) and making a charge for a service  
19 in connection with the remains before the delivery of the remains  
20 as stipulated by the kin. This subdivision shall not prevent a  
21 person or establishment licensed under this article from charging  
22 and being reimbursed for services rendered in connection with the  
23 removal of the remains of a deceased person in case of accidental  
24 or violent death, and rendering necessary services required until  
25 the next of kin or the person who is chargeable with the funeral  
26 expenses is notified.

1 (p) If a funeral establishment or a licensee, entering  
2 ~~upon~~ INTO an agreement, directly or indirectly, in which  
3 SERVICES INVOLVING the practice of ~~embalming or funeral direct-~~  
4 ~~ing is~~ ACTIVITIES REGULATED BY THIS ARTICLE ARE to be rendered  
5 in consideration for the funeral establishment, licensed person  
6 or an agent, assistant, or representative of the establishment or  
7 licensed person, being designated as beneficiary in an insurance  
8 policy or certificate. This subdivision shall not govern or  
9 limit the authority of an administrator or executor, trustee, or  
10 other person having a fiduciary relationship with the deceased.

11 (q) Failure to comply with part 138 of the public health  
12 code, Act No. 368 of the Public Acts of 1978, being sections  
13 333.13801 to 333.13819 of the Michigan Compiled Laws.

14 (R) IF A LICENSEE UNDER THIS ARTICLE, FAILURE TO PROPERLY  
15 SUPERVISE ACTIVITIES REGULATED BY THIS ARTICLE WHICH ARE PER-  
16 FORMED BY A RESIDENT TRAINEE WORKING UNDER SUCH LICENSEE'S SUPER-  
17 VISION OR FAILURE TO PREVENT A NONLICENSED PERSON WITH WHOM SUCH  
18 LICENSEE IS AFFILIATED FROM PERFORMING ACTIVITIES REQUIRING  
19 LICENSURE UNDER THIS ARTICLE.

20 (2) The department, in consultation with the director of  
21 public health, shall promulgate rules to prescribe training stan-  
22 dards for licensees and nonlicensees who handle medical waste in  
23 a funeral establishment.

24 (3) A licensee who owns or operates a funeral establishment  
25 shall train his or her employees pursuant to the rules promul-  
26 gated under subsection (2).

1       Sec. 1811. (1) The purchase of a vault or similar  
 2 receptacle designed or intended to enclose or receive a casket,  
 3 coffin, or other similar container from a particular individual,  
 4 partnership, association, or corporation shall not be required as  
 5 a condition to burial in a cemetery in this state OR TO THE PRO-  
 6 VIDING OF SERVICES AVAILABLE AT A FUNERAL ESTABLISHMENT. There  
 7 shall not be a discrimination by price, burial fee, or otherwise  
 8 by reason of a failure to purchase the vault or similar recepta-  
 9 cle from or under the direction of the cemetery, ~~or~~ the owner  
 10 of the cemetery, A FUNERAL ESTABLISHMENT, OR A PERSON HOLDING A  
 11 LICENSE FOR THE PRACTICE OF AN ACTIVITY REGULATED BY THIS  
 12 ARTICLE.

13       (2) This section ~~shall~~ DOES not limit the right of a ceme-  
 14 tery to require the use of a vault in a burial in the cemetery.

15       Sec. 1812. ~~(1)~~ An individual, partnership, association,  
 16 municipal corporation, body politic, or corporation which owns or  
 17 ~~conducts~~ OPERATES, either directly or indirectly, a cemetery or  
 18 burial ground in this state ~~shall not~~ MAY ESTABLISH, own,  
 19 manage, supervise, operate, or maintain, either directly or indi-  
 20 rectly, a funeral establishment, or MAY permit an officer, agent,  
 21 or employee to own, ESTABLISH, MANAGE, SUPERVISE, OPERATE, or  
 22 maintain a funeral establishment. ~~This subsection shall not~~  
 23 ~~apply to an elected official of a city, village, township, or~~  
 24 ~~county who serves as an ex officio member of a local cemetery~~  
 25 ~~board as a result of holding that office.~~

26       ~~(2) An individual, partnership, association, municipal~~  
 27 ~~corporation, body politic, or corporation which owns or conducts~~

~~1 a cemetery in this state shall not allow a funeral establishment  
2 to be owned or conducted on property owned or leased by the ceme-  
3 tery and used for cemetery purposes or designated as a cemetery.~~

~~4 (3) This section shall not prohibit the owner of a private  
5 burial ground used for the interment of the owner's family or the  
6 owner's descendants to own or maintain a funeral establishment  
7 under this article.~~