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BILL ANALYSIS

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Senate Bill 544 and 545 (as introduced 10-3-23)
Sponsor: Senator Veronica Klinefelt
Committee: Regulatory Affairs

Date Completed: 2-14-24

INTRODUCTION

Senate Bill 544 would establish licensure and registration for dead human body refrigeration facilities and dead human body removal services that operate independently of a funeral establishment or crematory. The Department of Licensing and Regulatory Affairs (LARA) would have to issue a refrigeration facility license or a removal service certificate of registration to an applicant that met specified requirements and whose facility or transport vehicle passed LARA's initial inspection. Licensees and registrants would have to continuously meet standards prescribed by the bill, and LARA could conduct random inspections on facilities and vehicles. The bill also would require a licensed refrigeration facility to comply with the Estates and Protected Individuals Code (EPIC) in its final disposition of a dead human body. Senate Bill 545 would prescribe the following fees for the proposed licensure and registration.

Fee Type	Amount
Application Processing Fee	\$225
License/Registration Fee	\$300, every two years
Initial Inspection Fee	\$300
Additional Vehicle Inspection Fee	\$50

FISCAL IMPACT

The bills would have an indeterminate fiscal impact on LARA and no fiscal impact on local units of government. The Department would receive, review, and process applications for licenses and registrations. In addition to the fees described above, LARA would be permitted to assess a penalty against a licensee or registrant who continued to operate a facility or service but failed to renew a license or certificate of registration within 30 days of the renewal date. All fees under the bill would be deposited into the Licensing and Regulation Fund.

It is likely that existing staff within the Corporations, Securities, and Commercial Licensing Bureau could assume a portion of the new responsibilities required under SB 544; however, prior to fee increases enacted by Public Act 334 of 2020, there was a revenue shortfall associated with the mortuary science licensing program. While the legislation addressed the shortfall, it is possible that costs associated with the new licenses and registrations could exceed revenue from fees. One or more additional FTE authorizations could be necessary to complete this work; however, this and other costs would depend upon the volume of applications received and licenses and registrations renewed. The average annual cost of an FTE is approximately \$137,500. The Department also would inspect facilities and vehicles and would have to establish an identification system for dead bodies. The additional expenditures are currently indeterminate but possibly could result in a request for additional appropriations.

Proposed MCL 339.1851-339.1873 (S.B. 544)
Proposed MCL 338.2243a (S.B. 545)

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CONTENT

Senate Bill 544 would add Article 18A to the Occupational Code to do the following:

- **Require LARA to issue a refrigeration facility license or a dead human body removal service certificate of registration to an applicant that met specified requirements, such as passing LARA's initial inspection of the facility or transport vehicle used in the applicant's business.**
- **Require a refrigeration facility to be managed by a mortuary science licensee and to meet specified requirements related to the storage of a dead human body.**
- **Require a removal service registrant to meet specified requirements related to the transport of a dead human body and specify that the registrant could only transport a body after receiving authorization from specified individuals or entities, such as a mortuary science licensee or a health facility.**
- **Specify that a licensee or registrant could only contract for business with specific entities, such as a health facility, county medical examiner, or medical school, among others.**
- **Require a refrigeration facility to make a good-faith effort to locate to locate the individual who had the right to make decisions related to the dead human body in accordance with EPIC.**
- **Allow LARA to perform random inspections of a facility or transport service.**
- **Require LARA to promulgate rules for Article 18A's implementation.**

Senate Bill 545 would add Section 43a to the State License Fee Act to prescribe license and registration fees for the refrigeration facility licensure and dead human body removal service registration proposed by Senate Bill 544's Draft 5 substitute. The bill also would prescribe application and initial inspection fees for that licensure and registration.

The bills are tie-barred.

Senate Bill 544

Refrigeration Facility License

Under the bill, a person could not operate a refrigeration facility without a refrigeration facility license. "Refrigeration facility" would mean a place of business that operates independently of a funeral establishment or crematory owner that maintains space to store and refrigerate a dead human body.

The bill would require LARA to issue a refrigeration facility license valid for two years to an applicant that met all the following conditions:

- The applicant submitted an application with information specified below.
- The applicant disclosed the applicant's criminal history to LARA.
- The applicant was of good moral character.
- The refrigeration facility and location listed on the application passed a LARA inspection.

The application information would have to include the name of the applicant; the name of the individual who served as the manager of the refrigeration facility as described below; the address of the registration facility; the name that the applicant would use to conduct business; and any other information required by LARA.

An issued refrigeration facility license would be for a specific location only, and a licensee would have to report a change in the location of the facility immediately to LARA as required

by rule. A licensee could not operate a refrigeration facility at a new location until LARA conducted an inspection of the facility and the facility passed inspection.

The bill would require LARA to assess a fee against a licensee that did not renew a license within 30 days after the expiration of a license and the operation of the facility continued.

Removal Service Registration Certificate

Under the bill, LARA would have to issue a removal service certificate of registration valid for two years to an applicant that met all the conditions:

- The applicant submitted an application with the same information specified above.
- The applicant disclosed the applicant's criminal history to LARA.
- The applicant was of good moral character.
- The vehicle used by the removal service to transport a dead human body met the requirements described below and passed an initial LARA inspection.

"Removal service" would mean a professional service that operates independently of a funeral establishment that handles the initial removal of a dead human body and transports the dead human body in an authorized vehicle to and from an authorized person.

The vehicle used by a registrant to transport a dead human body would have to be enclosed, constructed to secure the dead human body face up within the vehicle, and used only for the transport of a dead human body. The bill would require LARA to issue a registrant a decal that indicated the vehicle was an authorized vehicle, and a registrant would have to display the decal as prescribed by LARA's promulgated rules.

The bill would allow LARA to assess a fee to a registrant that did not renew a certificate of registration within 30 days after the expiration of the certificate and the operation of the removal service continued.

Licensee & Registrant Contracts & Employees

Under the bill, a refrigeration facility licensee or removal service registrant could contract only with the following entities:

- A health facility.
- A county medical examiner.
- A funeral establishment.
- A medical school.
- An organ procurement organization.

Additionally, an employee of a licensee or registrant would have to have identification of the employee's employer that included the license or registration number and the employer's name.

The bill would define "funeral establishment" as defined under Section 1801 of the Code: a place of business used in the care and preparation for burial or transportation of a dead human body or a place where an individual represents that he or she is engaged in the profession of undertaking or the practice of mortuary science. "Health facility" would mean a health facility or agency licensed under Article 17 of the Public Health Code; generally, the Code includes within these definitions ambulance operation or other transport systems, county medical care facilities, health maintenance organizations, hospitals, nursing homes, and hospices, among other facilities.

"Medical school" would mean that term as defined under Section 2701 of the Public Health Code: an accredited program for the training of individuals to become physicians. "Organ procurement organization" would mean that term as defined under Section 10102 of the Public Health Code: a person certified or recertified by the Secretary of the United States Department of Health and Human Services as a qualified organ procurement organization.

Refrigeration Facility Manager Requirements

Under the bill, a refrigeration facility would have to designate a holder of a license for the practice of mortuary science as a manager of the refrigeration facility. The manager would have to supervise the handling and sheltering of a dead human body at the refrigeration facility. The manager could not otherwise engage in the practice of mortuary science while acting as a manager.

A mortuary science licensee could not manage more than one refrigeration facility. A mortuary science licensee who managed a funeral establishment under the Code could not manage a refrigeration facility.

The bill would require refrigeration facility manager to live within 100 miles of the facility.

Receipt and Storage of a Dead Human Body

Section 3206 of EPIC generally prescribes the rights and powers of specific individuals to make decisions about funeral arrangements and the disposition of a body on behalf of a decedent. The Section allows an individual to grant those rights and powers to another individual before death; if an individual does not grant those rights and powers, the Section prescribes a list of individuals that may assume those rights and powers, including a surviving spouse and the decedent's children, among others. If none of the allowed individuals assume those rights and powers over a decedent's body within 14 days, Section 3206 requires the medical examiner for the county in which the decedent was domiciled at the time of his or her death to assume the rights and powers over the disposition of the decedent's body.

Under the bill, after a licensed refrigeration facility received a dead human body, any of the following persons would have to conduct a reasonable good-faith effort to locate the individual who had the right to make decisions related to the dead human body as provided under Section 3206 of EPIC to receive authorization from the individual to transfer the dead human body to a licensed funeral establishment:

- A family member, personal representative, or nominated personal representative of the decedent.
- A health facility or veteran's facility that provided medical treatment to the decedent during the final illness or immediately before the decedent's death.
- The manager of the refrigeration facility.

A licensee, manager, or other authorized personnel would have to ensure that a dead human body stored at a refrigeration facility was handled in the following manner:

- Stored at a temperature between 36- and 39-degrees Fahrenheit.
- Clothed or covered while refrigerated.
- Not stored directly on the ground.
- Stored as only one dead human body per table tray or container, unless otherwise authorized by a person who had authority to make arrangements under EPIC.
- Face up while stored or transported.
- Not stored over another dead human body, unless the dead human body was stored on a rack that had sufficient strength to support the dead human body.

The bill would require a refrigeration facility to have a holding room that met the following:

- Was not accessible by the general public.
- Maintained a temperature between 36- and 39-degrees Fahrenheit.
- Complied with all other applicable public health and safety laws.

Transport of a Dead Human Body

The bill would prohibit a registrant from transporting a dead human body unless the registrant received authorization from a mortuary science licensee, a county medical examiner, or an organ procurement agency or the registrant was transferring a dead human body from a health facility to a licensed refrigeration facility. A registrant would have to have equipment that included the following:

- One lightweight and one heavyweight body bag.
- A cot that was secured or restrained inside an authorized vehicle to prevent movement during transport.
- A cot cover for each cot used.
- A first-aid kit.
- A fire extinguisher.
- Protective clothing to meet the needs of the registrant's employees that accompany the removal of a dead human body, including disposable gowns, shoe covers, protective eyewear, gloves, masks, or waterproof aprons.

A registrant would have to maintain this equipment in a clean and sanitary manner and have it available whenever a dead human body was stored or in transit. A registrant also would have to disinfect a container that was used in the removal of a dead human body after the removal and before the container was used again.

When transporting a dead human body in an authorized vehicle, a registrant would have to conceal the body from public view, place the body face up in a body bag or rigid container to withstand transportation and prevent the leakage of bodily fluids and escape of odors, and transport the body with a transportation permit issued under the bill. A registrant would have to maintain the vehicle and equipment in a sanitary manner.

If an authorized vehicle used by a registrant to transport a dead human body could hold more than one dead human body, the dead human bodies would have to be placed face up in separate body bags or containers and secured with space between the bodies to prevent the contact of one with another.

Requirements of LARA

The bill would require LARA to establish a system for the identification of a dead human body received for removal by a licensee or registrant. The identification system would have to be able to track the identity of the dead human body from the time the body was received by a licensee or registrant to the time the dead human body was delivered to an authorized person.

After the initial inspection to be licensed or registered, LARA could conduct random inspections of the facility, grounds, or vehicles of a licensee or registrant. A representative of LARA would have to be allowed to enter the premises during regular business hours to inspect and determine whether the facility, grounds, or vehicles met the requirements of the Code and rules promulgated under the Code.

The bill also would require LARA to promulgate rules to implement Article 18. A licensee or registrant would have to comply with all State, local, and Federal laws, regulations, or ordinances that applied to the licensee or registrant.

Senate Bill 545

The bill would add Section 43a to the State License Fee Act to prescribe the following fees for licensure to operate a refrigeration facility under proposed Article 18A of the Occupational Code:

- Application processing fee, \$225.
- License fee, every two years, \$300.
- Initial inspection fee, \$300.

Additionally, Section 43a would prescribe the following fees for registration to operate a removal service under Article 18A:

- Application processing fee, \$225.
- Registration fee, every two years, \$300.
- Initial inspection fee, \$300.
- Additional vehicle inspection fee, \$50.

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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.