

SENATE BILL 328

Introduced by Harding

2/02	Introduced
2/02	Referred to State Administration
2/03	Fiscal Note Requested
2/09	Fiscal Note Received
2/10	Hearing
2/10	Fiscal Note Printed
	Died in Committee

1 *Senate* BILL NO. *328*  
2 INTRODUCED BY *Darling*  
3  
4 A BILL FOR AN ACT ENTITLED: "AN ACT PROVIDING FOR THE  
5 LICENSING OF EMBALMERS; AND AMENDING SECTIONS 37-19-101,  
6 37-19-301, 37-19-302, 37-19-304 THROUGH 37-19-306, AND  
7 37-19-311, MCA."  
8  
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:  
10 **Section 1.** Section 37-19-101, MCA, is amended to read:  
11 "37-19-101. Definitions. Unless the context requires  
12 otherwise, in this chapter the following definitions apply:  
13 (1) "Board" means the board of morticians provided for  
14 in 2-15-1853.  
15 (2) "Department" means the department of commerce  
16 provided for in Title 2, chapter 15, part 18.  
17 (3) "Embalmer" is a person licensed under this chapter  
18 to practice embalming.  
19 (4) "Embalming" means the preservation and  
20 disinfection of the dead human body by application of  
21 chemicals, externally, internally, or both.  
22 (5) "Funeral directing" includes:  
23 (a) supervising funerals;  
24 (b) preparing dead bodies for burial, other than by  
25 embalming;

1 (c) maintaining a mortuary for the preparation,  
2 disposition, or care of dead human bodies; and  
3 (d) the holding out to the public that one is a  
4 funeral director or undertaker.  
5 (6) "Mortuary science" is the profession or  
6 practice of funeral directing and embalming.  
7 (7) A "mortician" is a person licensed under this  
8 chapter to practice mortuary science.  
9 (8) A "mortuary" is a place of business used for  
10 the care and preparation for burial or transportation of  
11 dead human bodies or a place where a person represents  
12 himself as engaged in the profession of mortuary science or  
13 funeral directing."  
14 **Section 2.** Section 37-19-301, MCA, is amended to read:  
15 "37-19-301. Funeral director's license -- renewal --  
16 fee. The practice of funeral directing by anyone who does  
17 not hold a funeral director's license, an embalmer's  
18 license, or a mortician's license issued by the department  
19 is prohibited. A person licensed to practice funeral  
20 directing on June 1, 1963, is entitled to an annual renewal  
21 of his license on payment of a renewal fee to the department  
22 on July 1 of each year. The amount of the annual renewal  
23 license fee shall be set by the board. A funeral director's  
24 license may not be issued to a person who is not licensed by  
25 the board of embalmers and funeral directors to practice

1 funeral directing on June 1, 1963."

2 **Section 3.** Section 37-19-302, MCA, is amended to read:

3 **"37-19-302. License required for practice of mortuary**  
4 **science or embalming -- qualifications of applicants. (1)**  
5 The practice of embalming or mortuary science by anyone who  
6 does not hold an embalmer's or a mortician's license issued  
7 by the board is prohibited.

8 (2) A person 18 years of age or older wishing to  
9 practice mortuary science in this state must shall apply to  
10 the board on the form and in the manner prescribed by the  
11 board:

12 (2) To qualify for a mortician's license, a person  
13 must:

14 (a) be of good moral character;

15 (b) present evidence of having satisfactorily  
16 completed 90 quarter credits or the equivalent of study at  
17 an accredited college or university;

18 (c) in addition to the 90 quarter credits or the  
19 equivalent of study required in subsection (2)(b), have  
20 graduated with a diploma from an accredited college of  
21 mortuary science;

22 (d) pass an examination prescribed by the board; and

23 (e) serve a 1-year internship under the supervision of  
24 a licensed mortician in a licensed mortuary in Montana after  
25 passing the examination provided for in subsection (2)(d).

1 (3) A person who fails the examination required in  
2 subsection (2)(d) may retake it under conditions prescribed  
3 by rule of the board.

4 (4) A person 18 years of age or older wishing to  
5 practice embalming in this state shall apply to the board on  
6 the form and in the manner prescribed by the board. To  
7 qualify for an embalmer's license, a person must:

8 (a) be of good moral character;

9 (b) have graduated with a diploma from an accredited  
10 college of mortuary science;

11 (c) pass an examination prescribed by the board; and

12 (d) serve a 1-year internship under the supervision of  
13 a licensed mortician in a licensed mortuary in Montana after  
14 passing the examination provided for in subsection (4)(c).

15 (5) A person who fails the examination required in  
16 subsection (4)(c) may retake it under conditions prescribed  
17 by rule of the board.

18 (6) The board may waive the education requirements in  
19 subsections (2)(b), (2)(c), and (4)(b) if an applicant  
20 demonstrates a knowledge of mortuary science or embalming  
21 based on a combination of experience and education."

22 **Section 4.** Section 37-19-304, MCA, is amended to read:

23 **"37-19-304. Issuance of intern's license -- license**  
24 **fee -- issuance of mortician's license on completion of**  
25 **internship. An applicant who passes the examination provided**

1 for in 37-19-302 shall, upon payment of a license fee  
 2 prescribed by the board, be granted an intern mortician's  
 3 license or an intern embalmer's license to practice mortuary  
 4 science or embalming under the supervision of a licensed  
 5 mortician in a licensed mortuary in Montana and, upon  
 6 completion of 1 year's internship and payment of the annual  
 7 license fee, may apply for and receive a mortician's or an  
 8 embalmer's license."

9 **Section 5.** Section 37-19-305, MCA, is amended to read:

10 "37-19-305. **Reciprocity.** If a person holding a license  
 11 entitling him to practice mortuary science in another state  
 12 applies for a Montana mortician's or embalmer's license, the  
 13 board may waive the examination and internship requirements  
 14 if it finds that the standards and requirements of the state  
 15 in which the applicant is licensed are equal to or exceed  
 16 those of Montana and if a reciprocal agreement is required  
 17 by the other state, it has a reciprocal agreement with  
 18 Montana."

19 **Section 6.** Section 37-19-306, MCA, is amended to read:

20 "37-19-306. **Annual renewal of mortician's license --**  
 21 **fee -- suspension for nonrenewal.** (1) The annual license fee  
 22 for a mortician's or an embalmer's license must be  
 23 postmarked before July 1 of the assessment year. The amount  
 24 of the annual renewal fee shall be set by the board.

25 (2) Failure to pay the annual renewal fee results in

1 automatic suspension of the license. The license may be  
 2 reinstated by the payment of unpaid renewal fees plus a  
 3 penalty prescribed by the board."

4 **Section 7.** Section 37-19-311, MCA, is amended to read:

5 "37-19-311. **Refusal, suspension, or revocation of**  
 6 **mortician's, embalmer's, or funeral director's license.** The  
 7 board may refuse to grant, may suspend, or may revoke a  
 8 mortician's, embalmer's, or funeral director's license for  
 9 any of the following reasons:

10 (1) if the applicant or licensee obtained the license  
 11 by fraud or misrepresentation, either in the application for  
 12 the license or in passing the examination;

13 (2) if the applicant or licensee has violated any  
 14 section of this chapter or any rule of the state, district,  
 15 or local board of health governing the disposition of dead  
 16 human bodies or any rule of the board regulating the  
 17 professions of mortuary science, embalming, or funeral  
 18 directing or the operation of a mortuary;

19 (3) if the licensee has participated in any scheme in  
 20 the nature of a burial association or burial certificate  
 21 plan:

22 (a) which does not properly protect the rights of the  
 23 public;

24 (b) where there is any element of fraud; or

25 (c) where there is contained any agreement or

LC 1594/01

1 provision that deprives heirs, next of kin, or any other  
2 authorized person freedom of choice as to the services or  
3 merchandise used in connection with a funeral or the freedom  
4 of choice as to which funeral directors or morticians shall  
5 be employed;

6 (4) if the applicant or licensee violates rules  
7 adopted by the board which define unprofessional conduct on  
8 the part of applicants and licensees."

9 NEW SECTION. Section 8. Extension of authority. Any  
10 existing authority to make rules on the subject of the  
11 provisions of [this act] is extended to the provisions of  
12 [this act].

-End-

## STATE OF MONTANA - FISCAL NOTE

Form BD-15

In compliance with a written request, there is hereby submitted a Fiscal Note for SB328, as introduced.

DESCRIPTION OF PROPOSED LEGISLATION:

SB328 would provide for the licensing of embalmers through the Dept. of Commerce Board of Morticians.

ASSUMPTIONS:

1. There will be one licensed embalmer and the number of licensed morticians will remain at 264.
2. The proposed law will lead to the drafting of eight pages of rules and hearing on the same, plus development of an examination.
3. The board could either draw down its fund balance or adopt a one-time FY90 assessment of \$5 on each of the 265 licensees to pay for the fiscal impact.
4. There would be no fiscal impact in FY91 or in future years.
5. The 1991 biennium budget recommended by the executive is used under current law below.

FISCAL IMPACT:Expenditures:

	Current	FY90		Current	FY91	
	Law	Proposed	Difference	Law	Proposed	Difference
Dept. of Commerce						
Personal Services	\$ 3,572	\$ 3,572	\$ -0-	\$ 3,572	\$ 3,572	\$ -0-
Operating Expenses	21,641	22,901	1,260	21,524	21,524	-0-
Total	\$25,213	\$26,473	\$1,260	\$25,096	\$25,096	\$ -0-

Funding:

State Special Revenue						
License Fees	\$25,213	\$26,473	\$1,260	\$25,096	\$25,096	\$ -0-

*Ray Shackelford*

2/9/89

RAY SHACKLEFORD, BUDGET DIRECTOR DATE  
OFFICE OF BUDGET AND PROGRAM PLANNING

*Ethel M. Harding*

2/9/89

ETHEL M. HARDING, PRIMARY SPONSOR DATE

Fiscal Note for SB328, as introduced

**SB 328**