



# **BILL NO. 39**

*Government Bill*

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*2nd Session, 63rd General Assembly  
Nova Scotia  
67 Elizabeth II, 2018*

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**An Act to Amend Chapter 62  
of the Revised Statutes, 1989,  
the Cemetery and Funeral Services Act,  
and Chapter 144  
of the Revised Statutes, 1989,  
the Embalmers and Funeral Directors Act**

CHAPTER 30  
ACTS OF 2018

**AS ASSENTED TO BY THE LIEUTENANT GOVERNOR  
OCTOBER 11, 2018**

The Honourable Geoff MacLellan  
*Minister of Service Nova Scotia*

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*Halifax, Nova Scotia  
Printed by Authority of the Speaker of the House of Assembly*

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**An Act to Amend Chapter 62  
of the Revised Statutes, 1989,  
the Cemetery and Funeral Services Act,  
and Chapter 144  
of the Revised Statutes, 1989,  
the Embalmers and Funeral Directors Act**

Be it enacted by the Governor and Assembly as follows:

CEMETERY AND FUNERAL SERVICES ACT

**1** Clause 2(l) of Chapter 62 of the Revised Statutes, 1989, the *Cemetery and Funeral Services Act*, is amended by striking out “Consumer Affairs” in the second and third lines and substituting “Service Nova Scotia”.

**2** Subsection 8(2) of Chapter 62 is amended by striking out “set out in” in the second line and substituting “authorized by”.

**3** Subsection 9B(1) of Chapter 62, as enacted by Chapter 10 of the Acts of 2014, is amended by

- (a) striking out “and” at the end of clause (c); and
- (b) adding immediately after clause (c) the following clauses:
  - (ca) any undertakings to which a particular funeral home licence is subject;
  - (cb) any hearings scheduled by the Registrar;
  - (cc) any decision, or summary of a decision, made by the Registrar;
  - (cd) any convictions, fines or other penalties imposed by the courts under this Act; and

**4** (1) Subsection 21(4) of Chapter 62 is amended by striking out “*The Planning Act*” in the first line and substituting “Part IX of the *Municipal Government Act* and Part IX of the *Halifax Regional Municipality Charter*”.

(2) Subsection 21(5) is amended by striking out “*Land Titles Act*” in the first line and substituting “*Land Registration Act*”.

**5** (1) Clause 28(1)(cb) of Chapter 62, as enacted by Chapter 10 of the Acts of 2014, is amended by adding “, or authorizing the Registrar to prescribe,” immediately after “prescribing” in the first line.

(2) Subsection 28(1) of Chapter 62, as amended by Chapter 10 of the Acts of 2014, is further amended by adding immediately after clause (cb) the following clause:

(cba) prescribing, or authorizing the Registrar to prescribe, the form of the bond referred to in subsection (2) of Section 8;

**6 (1) Subsection 29(1) of Chapter 62 is amended by**

**(a) striking out “fails to comply with” in the first line of clause (a) and substituting “violates any provision of”; and**

**(b) striking out “and liable on summary conviction to a fine of not more than two thousand dollars” in the last two lines.**

**(2) Subsection 29(2) of Chapter 62 is repealed and the following subsections substituted:**

(2) Subject to subsection (4), an individual who is guilty of an offence under subsection (1) is liable on summary conviction to a fine of not less than \$1,000 and not more than \$25,000 or to imprisonment for a period of up to two years, or to both a fine and imprisonment.

(3) Subject to subsection (4), a corporation that is guilty of an offence under subsection (1) is liable on summary conviction to a fine of not less than \$3,000 and not more than \$300,000.

(4) The minimum fine for a violation of Section 7 is \$5,000 for an individual and \$10,000 for a corporation.

(5) Where a corporation commits an offence, every principal, director, manager, employee or agent of the corporation who authorized the contravention or assented to, acquiesced in or participated in it is guilty of the offence whether or not the corporation has been prosecuted for the offence.

(6) In addition to any other penalty under this Act, the court may do one or both of the following:

(a) order the person to comply with the provision of this Act or the regulations respecting which the person was convicted;

(b) where the court is satisfied that monetary benefits have accrued to the convicted person, order the person to pay compensation or make restitution to any person.

**7 Chapter 62 is further amended by adding immediately after Section 29 the following Section:**

30 A prosecution for an offence under this Act may not be commenced more than three years after the later of

(a) the date on which the offence was committed; and

(b) the date on which the evidence of the offence first came to the attention of the Registrar.

EMBALMERS AND FUNERAL DIRECTORS ACT

**8 Clause 2(e) of Chapter 144 of the Revised Statutes, 1989, the *Embalmers and Funeral Directors Act*, is amended by adding “, including cremation services” immediately after “public” in the last line.**

**9 Section 6 of Chapter 144 is repealed and the following Section substituted:**

6 (1) There shall be a Board of Registration of Embalmers and Funeral Directors consisting of

- (a) the Registrar;
- (b) one licensed embalmer appointed by the Minister;
- (c) two licensed funeral directors appointed by the Minister;
- (d) one licensed embalmer or funeral director elected by the Funeral Services Association of Nova Scotia;
- (e) two consumer advocates appointed by the Minister who, in the opinion of the Minister, represent the public interest and who are not and have not been an embalmer, a funeral director, an owner or operator of, or the holder of an interest in, a funeral home or an employee of any of them.

(2) A member of the Board, other than the Registrar, holds office for up to three years as determined by the Minister.

(3) A majority of the Board constitutes a quorum.

**10 Chapter 144 is further amended by adding immediately after Section 14 the following Section:**

14A By-laws made by the Board pursuant to Section 14 must provide that a person who made a complaint to the Board and is a witness at an Inquiry may be present to hear all evidence presented, unless the Board determines that witnesses should be excluded from the Inquiry until they have testified.

**11 Subsection 19(2) of Chapter 144, as enacted by Chapter 10 of the Acts of 2014, is amended by**

**(a) striking out the period at the end of clause (d) and substituting a semicolon; and**

**(b) adding immediately after clause (d) the following clauses:**

- (e) any hearings scheduled by the Board;
- (f) any decision, or summary of a decision, made by the Board following a hearing by the Board;
- (g) any convictions, fines or other penalties imposed by the courts under this Act.

**12 Subsection 28C(1) of Chapter 62, as enacted by Chapter 10 of the Acts of 2014, is amended by adding immediately after clause (c) the following clauses:**

- (ca) any undertakings to which a particular funeral home licence is subject;
- (cb) any hearings scheduled by the Registrar;
- (cc) any decision, or summary of a decision, made by the Registrar;
- (cd) any convictions, fines or other penalties imposed by the courts under this Act;

**13 Chapter 144 is further amended by adding immediately after Section 32B the following Section:**

32C (1) Every person who holds a funeral home licence shall

(a) ensure that human remains are labelled at all times while in the custody of the funeral home and while being transported to the funeral home, regardless whether the remains are being transported by a third-party transport service;

(b) ensure that every person transporting human remains is satisfied as to the identity of the remains at the time of initial pickup and at delivery to the intended destination; and

(c) create and follow a documented standardized process to ensure that human remains and cremated remains are continuously identified, from when the remains are picked up by a third-party transport service or are received by the funeral home and until the remains are released to the next of kin.

(2) Every person who holds a funeral home licence is responsible for ensuring that every person transporting human remains to the funeral home complies with the requirements set out in the regulations.

**14 Subsection 33(1) of Chapter 144, as amended by Chapters 10 and 47 of the Acts of 2014, is further amended by adding immediately after clause (ja) the following clauses:**

(jb) respecting requirements for the continuous identification of human remains and cremated remains;

(jc) respecting requirements for transporting human remains;

**15 (1) Subsection 34(1) of Chapter 144, as amended by Chapter 47 of the Acts of 2014, is further amended by**

(a) striking out “or 32B” in the second line of clause (a) and substituting “, 32B or 32C”; and

(b) striking out the last two lines and substituting “is guilty of an offence.”

**(2) Section 34 of Chapter 144, as amended by Chapter 47 of the Acts of 2014, is further amended by adding immediately after subsection (1) the following subsections:**

(1A) Subject to subsections (1C) and (1D), an individual who is guilty of an offence under subsection (1) is liable on summary conviction to a fine of not less than \$1,000 and not more than \$25,000 or to imprisonment for a period of up to two years, or to both a fine and imprisonment.

(1B) Subject to subsections (1C) and (1D), a corporation that is guilty of an offence under subsection (1) is liable on summary conviction to a fine of not less than \$3,000 and not more than \$300,000.

(1C) The minimum fine for a violation of Section 21 or 22 is \$5,000.

(1D) The minimum fine for a violation of Section 26 is \$10,000 for an individual and \$25,000 for a corporation.

(1E) Where a corporation commits an offence, every principal, director, manager, employee or agent of the corporation who authorized the contravention or assented to, acquiesced in or participated in it is guilty of the offence whether or not the corporation has been prosecuted for the offence.

**(3) Section 34 of Chapter 144, as amended by Chapter 47 of the Acts of 2014, is further amended by adding immediately after subsection (2) the following subsection:**

(3) In addition to any other penalty under this Act, the court may do one or both of the following:

(a) order the person to comply with the provision of this Act or the regulations respecting which the person was convicted;

(b) where the court is satisfied that monetary benefits have accrued to the convicted person, order the person to pay compensation or make restitution to any person.

**16 Chapter 144 is further amended by adding immediately after Section 34 the following Section:**

34A A prosecution for an offence under this Act may not be commenced more than three years after the later of

(a) the date on which the offence was committed; and

(b) the date on which the evidence of the offence first came to the attention of the Registrar.

**17 Notwithstanding Section 9,**

(a) the members of the Board of Registration of Embalmers and Funeral Directors immediately before the coming into force of this Act who were appointed by the Governor in Council hold office until their terms of office expire;

(b) upon the expiry of each term of office referred to in clause (a), a replacement may be appointed by the Minister in accordance with clauses 6(1)(b) and (c) of Chapter 144, as enacted by this Act;

(c) the members of the Board immediately before the coming into force of this Act who were elected by the Funeral Services Association of Nova Scotia hold office until their terms of office expire;

(d) upon the expiry of both terms of office referred to in clause (c), a replacement may be elected by the Association in accordance with clause 6(1)(d) of Chapter 144, as enacted by this Act; and

(e) effective June 1, 2019, the Minister may make appointments to the Board in accordance with clause 6(1)(e) of Chapter 144, as enacted by this Act.

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