

HOUSE BILL No. 5708

March 19, 1992, Introduced by Reps. Hoffman, Bartnik, Joe Young, Jr., Bodem and Dalman and referred to the Committee on State Affairs.

A bill to regulate the establishment, control, and maintenance of cemeteries, mausoleums, crematories, columbariums, and burial grounds; to regulate persons engaged in the operation of cemeteries, mausoleums, crematories, columbariums, and burial grounds; to prescribe procedures for the transfer of real property used or to be used as a cemetery, mausoleum, crematory, columbarium, or burial ground; to create certain funds; to prescribe penalties; and to repeal certain acts and parts of acts.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. As used in this act:

2 (a) "Burial space" means a lot or portion of a lot in a
3 public cemetery designed for the interment of a human body or
4 bodies, and not used for that purpose.

5 (b) "Cemetery" means 1 or a combination of more than 1 of
6 the following:

- 1 (i) A burial ground.
- 2 (ii) A mausoleum that provides for the disposition of the
3 body of a deceased person.
- 4 (iii) A crematory.
- 5 (iv) A columbarium.
- 6 (c) "Cemetery merchandise" means merchandise a cemetery
7 offers for sale to the public, and includes vaults, concrete
8 boxes, monuments, memorials, and foundations.
- 9 (d) "Cemetery service" or "cemetery services" means a serv-
10 ice offered by a cemetery to the public, and includes grave open-
11 ing, closing, and foundation installation.
- 12 (e) "Columbarium" means a structure, room, or space for the
13 inurnment or deposit of the cremated remains of a deceased
14 person.
- 15 (f) "Columbarium right" means the right of inurnment in a
16 columbarium.
- 17 (g) "Cremation" means the incineration of the body of a
18 deceased person.
- 19 (h) "Crematory" means a building or structure within which
20 the body of a deceased person is cremated.
- 21 (i) "Crypt" means a chamber within a mausoleum of sufficient
22 size to entomb the uncremated body of a dead person.
- 23 (j) "Department" means the department of commerce.
- 24 (k) "Director" means the director of the department, or his
25 or her designee.
- 26 (l) "Entombment right" means the right of crypt entombment
27 in a mausoleum or in an aboveground vault.

1 (m) "Interment" means the disposition of the body of a
2 deceased person by burial, entombment, or inurnment.

3 (n) "Mausoleum" means a structure containing crypts within
4 which the bodies of deceased persons are entombed.

5 (o) "Municipal corporation" means a county, township, city,
6 or village.

7 (p) "Perpetual care fund" means an irrevocable trust estab-
8 lished pursuant to section 48.

9 (q) "Person" means an individual, partnership, corporation,
10 association, governmental entity, or other legal entity.

11 (r) "Public cemetery" means a cemetery owned, managed, or
12 controlled by a city, village, or township.

13 (s) "Purchase price" means the amount paid, including prin-
14 cipal and interest, for a burial ground.

15 (t) "Right of burial" means the right to bury, inurn, or
16 entomb the remains or ashes of a deceased person.

17 Sec. 2. (1) Subject to subsection (4), a person that owns
18 or operates a cemetery shall do each of the following:

19 (a) Register with the director each cemetery owned or oper-
20 ated by that person, and pay to the director an annual registra-
21 tion in an amount determined by the department.

22 (b) Renew the registration described in subdivision (a)
23 annually.

24 (c) Obtain and maintain a valid license issued by the
25 department.

26 (d) Maintain a written record all of the following:

1 (i) The identity of the funeral establishment that prepared
2 a deceased person's body for final disposition in the cemetery.

3 (ii) The name and address of each person who possesses a
4 right of burial in the cemetery.

5 (iii) The name of each deceased person whose body is buried,
6 entombed, or inurned within the cemetery.

7 (iv) The total number of burial, entombment, or inurnment
8 sites within the cemetery, and a map identifying the specific
9 location of each.

10 (2) Subject to subsection (4), a person that owns a cemetery
11 shall not do any of the following:

12 (a) Permit a lien, mortgage, or any other encumbrance to be
13 placed against the land upon which the cemetery is situated.

14 (b) Grant or sell a right of burial upon land to which the
15 cemetery does not hold title in fee, land that is mortgaged or
16 encumbered, or land for which payment of a tax or special assess-
17 ment is delinquent.

18 (c) Transfer or convey 10% or more of an ownership interest
19 in a cemetery without the written approval of the director.

20 (d) Operate a cemetery without a valid license issued under
21 this act.

22 (3) A cemetery established after the effective date of this
23 act that is used or proposed to be used as a burial ground shall
24 consist of not less than 40 acres of land.

25 (4) A cemetery owned and operated by a municipal corpora-
26 tion, church, or religious institution is exempt from this act.
27 A cemetery for earth interment that is 10 acres or less in size

1 and owned and operated exclusively by an existing nonprofit
2 entity is exempt from the fee provisions of this act and from the
3 care fund requirements of section 48 that are not reporting
4 requirements, if a burial took place in that cemetery before
5 September 15, 1968.

6 Sec. 3. (1) A person that seeks to establish a cemetery
7 shall do each of the following:

8 (a) File with the director, on forms furnished by the direc-
9 tor, an application for a permit to establish a cemetery.

10 (b) Include with the application an investigation fee of
11 \$500.00.

12 (2) After receipt of an application and investigation fee,
13 the director shall examine and review the physical plans, the
14 community need for the planned cemetery, and pertinent informa-
15 tion pertaining to the applicant's experience, financial stabili-
16 ty, ability, and integrity.

17 (3) After completing an examination and review described in
18 subsection (2), the director shall grant or deny the permit. If
19 an application is denied, the director shall provide the appli-
20 cant with a written notice of the denial within 30 days of the
21 denial, and the written notice shall specify the facts upon which
22 the denial is based.

23 (4) An applicant aggrieved by a decision under this section
24 may petition the department for a written review of the
25 decision. The petition shall be served upon the department no
26 later than 30 days after the decision.

1 (5) As used in this section and section 4, "applicant"
2 includes the general manager and principal owner or owners of a
3 partnership, association, or corporation that seeks to establish
4 a cemetery.

5 Sec. 4. Each person operating a cemetery shall register the
6 cemetery by filing with the director a registration application
7 before June 2 of each year, on a form furnished by the director,
8 and accompanied by the registration fee. Registrations shall
9 expire on June 30 of each year. If the a registration is denied
10 under this section, the director shall and the applicant may pro-
11 ceed in the manner prescribed in section 3(3). The director may
12 impose a late penalty filing fee of \$20.00 if payment is less
13 than 60 days late. If payment is not tendered for 60 or more
14 days after the expiration of a license, the applicant shall pay
15 the late fee and the amount required to be paid for a new
16 application.

17 Sec. 5. (1) The director or an examiner, investigator, or
18 other person the director may appoint, may visit and examine the
19 affairs of any cemetery or business entity required to register
20 under this act and shall have free access to the books, papers,
21 records, and documents that relate to the business of the ceme-
22 tery, business entity, or agent acting on its behalf.

23 (2) The books, papers, records, and documents shall be
24 available for inspection or audit at any time during regular
25 business hours with reasonable notice. The person licensed under
26 this act shall pay the actual cost of the audit.

1 Sec. 6. (1) The director shall charge an annual
2 registration fee set by the department for each cemetery
3 registered under this act. Not less than 90 days before the
4 expiration of a registration, the director shall mail an applica-
5 tion for registration renewal to the last known address of the
6 applicant, and include with the application a notice of the pro-
7 cedures and deadlines for registration renewal.

8 (2) The director shall institute and maintain a system of
9 auditing trust funds required by this act and of registering each
10 cemetery authorized to be created, maintained, and operated under
11 Act No. 12 of the Public Acts of 1869, being sections 456.101 to
12 456.119 of the Michigan Compiled Laws, and Act No. 87 of the
13 Public Acts of 1855, as amended, being sections 456.1 to 456.36
14 of the Michigan Compiled Laws.

15 (3) If a person proposes to purchase or otherwise acquire a
16 controlling interest in an existing cemetery company, that person
17 shall first make application to the director for a certificate of
18 approval of a proposed change of control of a cemetery company.
19 The application shall contain the name and address of the pro-
20 posed new owner or operator and other information as the director
21 requires. The director shall issue a certificate of approval
22 only after he or she is satisfied that the proposed new owner is
23 qualified by character, experience, and financial responsibility
24 to control and operate the cemetery in a legal and proper manner,
25 and that the interest of the public generally will not be jeopar-
26 dized by the proposed change in ownership and management. The
27 application for a purchase or change of control shall be

1 accompanied by an initial filing or investigation fee of
2 \$500.00.

3 (4) As used in this section, "controlling interest" means
4 the capability to decide the operating and financial policies of
5 the cemetery company or to select a majority of the officers or
6 directors of the cemetery company. In deciding whether a person
7 or business entity has or proposes to acquire a controlling
8 interest, the percentage of the stock, assets, or other indicia
9 of ownership which a person acquires or proposes to acquire need
10 not be the only factor considered by the director.

11 Sec. 7. (1) The director shall require each cemetery to
12 establish and maintain perpetual care fund as required by this
13 act or by section 35a of Act No. 87 of the Public Acts of 1855,
14 being section 456.35a of the Michigan Compiled Laws, or section 7
15 of Act No. 12 of the Public Acts of 1869, being section 456.107
16 of the Michigan Compiled Laws, and to report annually before July
17 1 of each year, on forms approved and furnished by the director,
18 care fund information required to be reported to the director by
19 other statutes and information regarding the funds as the direc-
20 tor considers pertinent in the public interest. A cemetery
21 applying to the director as authorized by other statutes for a
22 care fund deposit modification or waiver shall be assessed the
23 actual expenses for an examination or investigation by the
24 director. The director shall require each person engaged as
25 agent or seller, as a means of livelihood either part time or
26 full time, in the selling of burial rights, entombment rights, or
27 columbarium rights owned by a party other than a cemetery or

1 corporation subject to the care fund requirements of other laws,
2 to deposit 15% of all gross proceeds received from the sales of
3 those rights into the irrevocable care fund of the cemetery in
4 which the rights are located if an irrevocable care fund exists
5 for that cemetery. Excess sums on deposit in the fund can be
6 applied by a cemetery against future deposits. A deposit
7 required to be made by those persons shall be modified or waived
8 if the cemetery has received a care fund deposit modification or
9 waiver approved by the director. The total deposit for a single
10 adult burial right sale or assignment shall not be less than
11 \$20.00.

12 (2) A cemetery required to register pursuant to this act and
13 an agent authorized by a cemetery or acting on its behalf under
14 an agreement or sales contract to sell cemetery merchandise or
15 cemetery services shall establish a merchandise trust account and
16 deposit a percentage of the gross proceeds received from the
17 sales as determined by the director. The merchandise trust
18 account shall be maintained exclusively for the deposit of the
19 money into a bank or trust company located in this state under
20 the terms of a written trust agreement approved by the director.
21 The funds shall be deposited not later than the month following
22 their receipt.

23 (3) The total deposits to a merchandise trust for the sale
24 of cemetery burial vaults or other outside containers, other than
25 crypts installed underground and sold as part of a cemetery lot,
26 shall at all times be not less than the greater of \$100.00 per
27 vault or outside container or 130% of the total costs of the

1 containers covered by the trust. Money deposited in connection
2 with a sale shall be repaid within 30 days upon written demand of
3 purchaser. A burial vault shall be installed only at need or by
4 separate written authorization of the purchaser. The cemetery
5 may withdraw the amount on deposit for the delivered vault or
6 outside container.

7 (4) A contract or agreement made with a purchaser of ceme-
8 tery merchandise and services shall contain a complete descrip-
9 tion of the cemetery merchandise purchased and of the services to
10 be rendered.

11 (5) The director shall require each cemetery or agent autho-
12 rized by it acting on its behalf to report annually before July 1
13 of each year on forms provided by the director. The reports
14 shall contain information as the director considers necessary to
15 ascertain that this act is being implemented.

16 (6) If, after an audit by the director's staff, a deficit in
17 the amount of required deposits to the trust funds is found, the
18 director may assess a penalty not to exceed 10% of the amount of
19 the deficit. The cemetery or entity of a cemetery may request a
20 hearing before the director within 30 days after being notified
21 of a deficit by the director. If, following the hearing, the
22 director determines that a deficit does exist, an additional pen-
23 alty not to exceed 1.5% may be assessed each month on the unpaid
24 monthly balance until the deficit is paid in full.

25 (7) All fees, charges, and penalties collected under this
26 act shall be paid to the department. Upon receipt, the

1 department shall remit funds received to the department of
2 treasury for deposit in the general fund of the state.

3 Sec. 8. The department may promulgate rules under this act
4 pursuant to the administrative procedures act of 1969, Act
5 No. 306 of the Public Acts of 1969, being sections 24.201 to
6 24.328 of the Michigan Compiled Laws.

7 Sec. 9. (1) A complaint that alleges that a person has vio-
8 lated this act or a rule promulgated or an order issued under
9 this act shall be lodged with the department. The department of
10 attorney general, the department or any other person may file a
11 complaint.

12 (2) As used in this act:

13 (a) "Complainant" means a person who has filed a complaint
14 with the department alleging that a person has violated this act
15 or a rule promulgated or an order issued under this act. If a
16 complaint is made by the department, the director shall designate
17 1 or more employees of the department to act as the complainant.

18 (b) "Respondent" means a person against whom a complaint has
19 been filed who may be a person who is or is required to be
20 licensed or registered under this act.

21 Sec. 10. The department, upon receipt of a complaint, imme-
22 diately shall begin its investigation of the allegations of the
23 complaint and shall open a correspondence file. The department
24 shall make a written acknowledgment of the complaint within 15
25 days after receipt of the complaint to the person making the
26 complaint. If the complaint is made by the department, the

1 director shall designate 1 or more employees of the department to
2 act as the person making the complaint.

3 Sec. 11. The department shall conduct the investigation
4 required under section 10. In furtherance of that investigation,
5 the department may request that the attorney general petition the
6 circuit court to issue a subpoena requiring a person to appear
7 before the department and be examined with reference to a matter
8 within the scope of the investigation and to produce books,
9 papers, or documents pertaining to the investigation.

10 Sec. 12. (1) The investigative unit of the department,
11 within 30 days after the department receives the complaint, shall
12 report to the director on the status of the investigation. If,
13 for good cause shown, an investigation cannot be completed within
14 30 days, the director may extend the time in which a report may
15 be filed. The total number of extensions permitted under this
16 section shall be included in the department's annual report.

17 (2) If the report of the investigative unit of the depart-
18 ment does not disclose a violation of this act or a rule promul-
19 gated or an order issued under this act, the complaint shall be
20 closed by the department. The reasons for closing the complaint
21 shall be forwarded to the respondent and complainant, who then
22 may provide additional information to reopen the complaint.

23 (3) If the report of the investigative unit made pursuant to
24 subsection (1) discloses evidence of a violation of this act or a
25 rule promulgated or an order issued under this act, the depart-
26 ment or the department of attorney general shall prepare the

1 appropriate action against the respondent which may be any of the
2 following:

- 3 (a) A formal complaint.
- 4 (b) A cease and desist order.
- 5 (c) A notice of summary suspension.
- 6 (d) A citation.

7 (4) At any time during its investigation or after the issu-
8 ance of a formal complaint, the department may bring together the
9 complainant and the respondent for an informal conference. At
10 the informal conference, the department shall attempt to resolve
11 issues raised in the complaint and may attempt to aid the parties
12 in reaching a formal settlement or stipulation.

13 Sec. 13. (1) After an investigation has been conducted, the
14 department may issue an order summarily suspending a license or a
15 registration issued under this act based on an affidavit by a
16 person familiar with the facts set forth in the affidavit, or, if
17 appropriate, based upon an affidavit on information and belief,
18 that an imminent threat to the public health, safety, and welfare
19 exists. The department shall promptly schedule and hold a hear-
20 ing to determine whether the suspension should be continued.

21 (2) A person whose license or registration has been summar-
22 ily suspended under this section may petition the department to
23 dissolve the order. Upon receiving a petition, the department
24 immediately shall schedule a hearing to decide whether to grant
25 or deny the requested relief.

26 (3) An administrative law hearings examiner shall grant the
27 requested relief dissolving the summary suspension order, unless

1 sufficient evidence is presented that an imminent threat to the
2 public health, safety, and welfare exists that requires emergency
3 action and continuation of the director's summary suspension
4 order.

5 (4) The record created at the hearing to dissolve a summary
6 suspension order shall become part of the record on the complaint
7 at a subsequent hearing in a contested case.

8 Sec. 14. (1) After an investigation has been conducted, the
9 director may order a person to cease and desist from a violation
10 of this act or a rule promulgated or an order issued under this
11 act.

12 (2) A person ordered to cease and desist shall be entitled
13 to a hearing before the department if a written request for a
14 hearing is filed within 30 days after the effective date of the
15 order.

16 (3) Upon a violation of a cease and desist order issued
17 under this act, the department of the attorney general may apply
18 in the circuit court of this state to restrain and enjoin, tempo-
19 rarily or permanently, or both, a person from further violating a
20 cease and desist order.

21 Sec. 15. A summary suspension order, cease and desist
22 order, or injunctive relief issued or granted in relation to a
23 license or registration issued under this act shall be in addi-
24 tion to and not in place of an informal conference, criminal
25 prosecution, or proceeding to deny, revoke, suspend, or place a
26 limitation on, a license, registration, or any other action
27 authorized by this act.

1 Sec. 16. (1) After an investigation has been conducted and
2 a formal complaint prepared, the department shall serve the
3 formal complaint upon the respondent and the complainant. At the
4 same time, the department shall serve the respondent with a
5 notice describing the compliance conference and hearing processes
6 and offering the respondent a choice of 1 of the following
7 opportunities:

8 (a) An opportunity to meet with the department to negotiate
9 a settlement of the matter.

10 (b) If the respondent is a licensee or registrant under this
11 act, an opportunity to demonstrate compliance prior to holding a
12 contested case hearing, as required by section 92 of the adminis-
13 trative procedures act of 1969, Act No. 306 of the Public Acts of
14 1969, being section 24.292 of the Michigan Compiled Laws.

15 (c) An opportunity to proceed to a contested case hearing as
16 set forth in section 71 of Act No. 306 of the Public Acts of
17 1969, being section 24.271 of the Michigan Compiled Laws.

18 (2) A respondent upon whom service of a formal complaint has
19 been made pursuant to this section may select, within 15 days
20 after the receipt of notice, 1 of the options described in sub-
21 section (1). If a respondent does not select 1 of those options
22 within the time period described in this section, the department
23 shall proceed to a contested case hearing as described in subsec-
24 tion (1)(c).

25 (3) An informal conference may be attended by a representa-
26 tive of the department, at the discretion of the department, and
27 may result in a settlement, consent order, waiver, default, or

1 other method of settlement agreed upon by the parties. A
2 settlement may include the revocation, suspension, or limitation
3 of a license or registration; censure; probation; restitution; or
4 a penalty provided for in this act. The department may reject a
5 settlement and require a contested case hearing under section 71
6 of Act No. 306 of the Public Acts of 1969, as amended, being sec-
7 tion 24.271 of the Michigan Compiled Laws.

8 (4) An authorized employee or agent of the department may
9 represent the department in any contested case hearing held pur-
10 suant to Act No. 306 of the Public Acts of 1969.

11 Sec. 17. This act does not prevent a person against whom a
12 complaint has been filed from showing compliance with this act,
13 or a rule or an order promulgated or issued under this act or
14 under section 92 of the administrative procedures act of 1969,
15 Act No. 306 of the Public Acts of 1969, being section 24.292 of
16 the Michigan Compiled Laws.

17 Sec. 18. If an informal conference is not held or does not
18 result in a settlement of a complaint, a hearing pursuant to sec-
19 tion 92 of the administrative procedures act of 1969, Act No. 306
20 of the Public Acts of 1969, being section 24.292 of the Michigan
21 Compiled Laws, shall be held.

22 Sec. 19. The department or the department of the attorney
23 general may petition a circuit court to issue a subpoena which
24 shall require the person subpoenaed to appear or testify or
25 produce relevant documentary material for examination at a pro-
26 ceeding conducted under section 16 or 18.

1 Sec. 20. (1) Except as provided in subsection (3), at the
2 conclusion of a hearing conducted under section 18, the
3 administrative law hearings examiner shall submit a determination
4 of findings of fact and conclusions of law to the department and
5 the department of the attorney general in a hearing report. The
6 submitted hearing report may recommend the penalties to be
7 assessed as prescribed in sections 32 to 36.

8 (2) A copy of a hearing report shall be submitted to the
9 person who made the complaint and to the person against whom the
10 complaint was lodged.

11 Sec. 21. (1) Within 60 days after receipt of an administra-
12 tive law hearings examiner's hearing report, the department shall
13 determine the penalties to be assessed under this act. The
14 department's determination shall be made on the basis of the
15 administrative law hearings examiner's report. A transcript of a
16 hearing or a portion of the transcript shall be made available to
17 the department upon request. If a transcript or a portion of the
18 transcript is requested, the department's determination of the
19 penalty or penalties to be assessed under sections 32 to 36 shall
20 be made at a meeting within 60 days after receipt of a transcript
21 or portion of the transcript.

22 (2) If the department does not determine the appropriate
23 penalty or penalties to be assessed within the time limits pre-
24 scribed by subsection (1), the director may determine the appro-
25 priate penalty and issue a final order under this act.

26 (3) A department employee who has participated in an
27 investigation on a complaint filed with the department or who has

1 attended an informal conference shall not participate in making a
2 final determination in a proceeding on that complaint.

3 Sec. 22. A person seeking a license, a registration, or the
4 renewal of a license or registration under this act may petition
5 the department for a review if that person does not receive a
6 license, a registration, or the renewal of a license or
7 registration.

8 Sec. 23. A petition submitted under section 22 shall be in
9 writing and shall set forth the reasons the petitioner feels the
10 license or registration should be issued.

11 Sec. 24. In considering a petition submitted under section
12 22, the department may administer an alternative form of testing
13 to the petitioner, or conduct a personal interview with the peti-
14 tioner, or both.

15 Sec. 25. The department may issue a license, a registra-
16 tion, or the renewal of a license or registration for a cemetery,
17 if, based on a review of the qualifications of the person who
18 submitted a petition under section 22, the department determines
19 that the person is qualified under this act to be licensed or
20 registered or to have a license or registration renewed.

21 Sec. 26. (1) A person who has had a limitation placed on a
22 license, a registration, or the renewal of a license or registra-
23 tion within 30 days after the limitation is placed on the
24 license, the registration, or the renewal of the license or reg-
25 istration, may petition the department in writing for a review of
26 the decision to place the limitation.

1 (2) The department, in reply to a petition submitted under
2 subsection (1), shall set forth the reasons the department
3 determined that the limitation should be placed on the license,
4 the registration, or the renewal of a license or registration.
5 The reply to the person who submits a petition under this section
6 shall be sent to the petitioner within 15 days after receipt of
7 the petition.

8 (3) The department may remove the limitation, if, based on a
9 review of the petitioner's qualifications, the department deter-
10 mines that the person who submitted a petition under subsection
11 (1) could perform with competence each function of the occupation
12 without the limitation.

13 Sec. 27. Notwithstanding any other provision of this act,
14 if an oral or written grievance was lodged before the effective
15 date of this act against a person licensed under an act repealed
16 by this act, the proceedings on that grievance shall be conducted
17 in the manner prescribed in the repealed act.

18 Sec. 28. As used in sections 29 to 30:

19 (a) "Employee of the department" means an individual
20 employed by the department or a person under contract to the
21 department whose duty it is to enforce the provisions of this act
22 or rules promulgated or orders issued under this act.

23 (b) "Citation" means a form prepared by the department pur-
24 suant to section 29.

25 Sec. 29. (1) An employee of the department may issue a
26 citation to a person licensed or registered under this act or
27 required to be licensed or registered under this act if the

1 employee observes or deduces from an investigation, inspection,
2 or complaint that conduct or conditions exist or have existed
3 which are in violation of this act or rules promulgated or orders
4 issued under this act.

5 (2) A citation may be sent to a respondent by certified
6 mail, return receipt requested, or may be delivered in person by
7 the issuing employee.

8 (3) A citation shall contain all of the following:

9 (a) The date of the citation.

10 (b) The name and title of the individual issuing the
11 citation.

12 (c) The name and address of the respondent, indicating that
13 the respondent is being cited for a violation of the act or rules
14 promulgated or orders issued under the act.

15 (d) A brief description of the conduct or conditions which
16 are considered to be a violation of the act or rules or orders
17 issued under the act and a reference to the section of the act,
18 the rule, or order the respondent is alleged to have violated.

19 (e) The proposed penalties or actions required for compli-
20 ance, including the payment of a fine which shall not exceed
21 \$100.00 for each violation.

22 (f) A space for the respondent to sign as a receipt for the
23 citation.

24 (g) A space where the respondent may accept the citation and
25 agree to comply or may indicate that the violation contained in
26 the citation is contested.

1 (h) A notice that the respondent must accept or reject the
2 terms of the citation within 30 days.

3 (i) A brief description of the hearing process and the pro-
4 cess for settlement through an informal conference as described
5 in section 16.

6 Sec. 30. (1) A respondent shall have 30 days in which to
7 notify the department in writing that the person accepts the con-
8 ditions set forth in the citation or that the person does not
9 admit to the violation cited.

10 (2) If the respondent accepts the conditions set forth in
11 the citation, the respondent, within 30 days after receiving the
12 citation, shall sign the citation and return it to the department
13 along with any fine or other material required to be submitted by
14 the terms of the citation. The citation and accompanying mate-
15 rial shall be placed in the person's records with the department,
16 indicating the nature of the violation and that the person
17 accepted the conditions imposed. A citation issued under this
18 section shall have the same force and effect as a final order
19 issued by the department and may be disclosed to the public. If
20 no further disciplinary actions are placed upon the person's
21 record within 5 calendar years after the citation is issued, the
22 department shall remove the citation and accompanying material
23 from the records. If a respondent so chooses, a 1-page explana-
24 tion prepared by the respondent shall be placed in the
25 department's files and shall be disclosed each time the issuance
26 of the citation is disclosed.

1 (3) If the respondent does not admit to the violation cited,
2 the person may so state on the citation and return 1 copy to the
3 department within the 30 days after the receipt of the citation.
4 Upon receiving a copy of the citation not admitting to the viola-
5 tion, the process initiated by section 16 of the act shall be
6 invoked, with the citation serving as the formal complaint.

7 Sec. 31. The signing of a citation as an indication that
8 the citation was received by the respondent is a receipt of, not
9 an admission to, the violation cited.

10 Sec. 32. (1) A person who violates this act is guilty of a
11 misdemeanor, punishable by imprisonment for not more than 90
12 days, or a fine of not more than \$500.00, or both.

13 (2) A person who violates this act a second or any subse-
14 quent time is guilty of a misdemeanor, punishable by imprisonment
15 for not more than 1 year, or a fine of not more than \$1,000.00,
16 or both.

17 (3) An investigation may be conducted under this act to
18 enforce this section. A person who violates this section is
19 subject to the penalties prescribed in this section and
20 section 14.

21 Sec 33. A person who violates a section of this act or a
22 rule or order promulgated or issued under this act shall be
23 assessed 1 or more of the following penalties:

24 (a) Placement of a limitation on a license or registration
25 regulated under this act.

26 (b) Suspension of a license or registration.

1 (c) Denial of a license, registration, or renewal of a
2 license or registration.

3 (d) Revocation of a license or registration.

4 (e) A civil fine to be paid to the department, not to exceed
5 \$10,000.00.

6 (f) Probation.

7 (g) A requirement that restitution be made.

8 Sec. 34. If restitution is required to be made under sec-
9 tion 33, the license or registration of the person required to
10 make the restitution may be suspended until the restitution is
11 made.

12 Sec. 35. A person who violates 1 or more of the provisions
13 of this act is subject to the penalties prescribed in section
14 33:

15 (a) Practices fraud or deceit in obtaining a license or
16 registration.

17 (b) Practices fraud, deceit, or dishonesty in owning or
18 operating a cemetery.

19 (c) Violates a rule promulgated under this act.

20 (d) Demonstrates a lack of good moral character.

21 (e) Commits an act of gross negligence in the operation of a
22 cemetery.

23 (f) Practices false advertising.

24 (g) Commits an act which demonstrates incompetence.

25 (h) Violates any other provision of this act or a rule
26 promulgated under this act for which a penalty is not otherwise
27 prescribed.

1 (i) Fails to comply with a subpoena issued under this act.

2 (j) Fails to respond to a citation as required by
3 section 30.

4 (k) Violates or fails to comply with a final order issued by
5 the department, including a stipulation, settlement agreement, or
6 a citation.

7 Sec. 36. The department may bring any appropriate action in
8 the name of the people of this state to carry out this act and to
9 enforce this act. If the attorney general considers it neces-
10 sary, the attorney general shall intervene in and prosecute all
11 cases arising under this act.

12 Sec. 37. None of the following shall be established within
13 1/4 mile of the entrance to a cemetery:

14 (a) An entertainment facility.

15 (b) A site for sports activities.

16 (c) A facility that serves alcoholic beverages.

17 Sec. 38. A right of burial granted by a cemetery is trans-
18 ferable and fully alienable, subject to each of the following
19 limitations:

20 (a) Conditions prescribed by of the cemetery that granted
21 the right of burial.

22 (b) The rights in a specific burial space that the grantee's
23 spouse or next of kin has at law or in equity.

24 Sec. 39. (1) A person shall not hunt game or carry or dis-
25 charge a firearm on a burial ground.

1 (2) A person shall not enter or direct another person to
2 enter a burial ground by climbing or leaping over a fence or wall
3 that surrounds the burial ground.

4 (3) A person shall not direct or cause an animal to enter a
5 burial ground.

6 (4) A cemetery may be a nonprofit corporation, as that term
7 is defined by section 108 of the nonprofit corporation act, Act
8 No. 162 of the Public Acts of 1982, being section 450.2108 of the
9 Michigan Compiled Laws, or a for profit corporation.

10 Sec. 40. A cemetery shall do each of the following before
11 issuing a certificate of a right of burial in the cemetery:

12 (a) Prepare maps of that cemetery containing an accurate
13 description of the land within which the cemetery is situated,
14 including each of the following:

15 (i) The cemetery's boundaries and location.

16 (ii) The size, dimensions, and location of each lot or sub-
17 division named and numbered within that cemetery.

18 (iii) The location of all streets, alleys, or walkways
19 within that cemetery.

20 (b) File 1 certified copy of the map with the corporation
21 and securities bureau of the department.

22 Sec. 41. A cemetery may sue or be sued under the cemetery's
23 name, and may have a common seal that the cemetery's owner may
24 alter at the owner's discretion.

25 Sec. 42. A burial ground corporation organized under the
26 laws of this state before the effective date of this act is a
27 cemetery corporation.

1 Sec. 43. This act does not impair any right that accrued
2 before the effective date of this act.

3 Sec. 44. A cemetery owner seeking to vacate a cemetery
4 shall notify the families of each deceased person buried,
5 entombed, or inurned in the cemetery of the owner's intent to
6 vacate the cemetery, and shall petition the circuit court in the
7 county within which the cemetery is located to enter an order for
8 the vacating of that cemetery. The circuit court may enter an
9 order for the vacating of the cemetery no earlier than 6 months
10 after the filing of the petition and receipt of proof that the
11 families of each deceased person buried, entombed, or inurned in
12 that cemetery have received notice of the intent to vacate, or if
13 all of those families have not been located, that notice of the
14 petition was published for 12 consecutive weeks in a newspaper
15 designated by the court.

16 Sec. 45. A cemetery owner may dispose of a forfeited right
17 of burial in a site that has not been used as a repository of the
18 dead, and may proceed with that disposal in the same manner as if
19 the right of burial had not been granted, if all of the following
20 occurs:

21 (a) The person who possessed the right of burial, or his or
22 her family, receives written notice of the proposed forfeiture.

23 (b) A person described in subdivision (a) does not give the
24 cemetery owner written notice of that person's objection to the
25 forfeiture within 30 days after his or her receipt of the notice
26 described in subdivision (a).

1 Sec. 46. A cemetery may petition the circuit or district
2 court for an order terminating a person's right of burial and
3 forfeiting that person's interest in a burial site for which that
4 person has not paid. The court may grant the petition no earlier
5 than 6 months after the filing of the petition, and only upon
6 receipt of proof that notice of the petition was published for a
7 period of 12 consecutive weeks in a newspaper designated by the
8 court.

9 Sec. 47. (1) A cemetery shall maintain a record of each
10 right of burial issued by that cemetery. The record shall be
11 accompanied by a map, and shall identify the site for and total
12 price of the right of burial. A cemetery that operates a colum-
13 barium shall maintain a record of the names and addresses of the
14 owners of each niche, the names of deceased persons who are
15 inurned in each niche, and the number of niches owned by the cre-
16 mation corporation.

17 (2) Each cemetery shall maintain records described in sub-
18 section (1) alphabetically by the surnames of purchasers of
19 rights of burial.

20 Sec. 48. (1) A cemetery shall provide a receipt to each
21 purchaser of a right of burial issued for the cemetery. The
22 receipt shall accurately describe the site for which the cemetery
23 received payment.

24 (2) Upon receipt of payment for a right of burial, a ceme-
25 tery shall issue to the purchaser of that right of burial a cer-
26 tificate containing the information described in section 39.

1 Sec. 49. (1) Except as provided in subsection (9), a
2 cemetery shall establish a fund that perpetually does each of the
3 following:

4 (a) Pay any assessments levied against a burial ground owned
5 by the cemetery owner.

6 (b) Provide for the maintenance and upkeep of the land and
7 monuments within a burial ground owned by the cemetery owner.

8 (c) If all assessments and maintenance and upkeep costs have
9 been paid, provide for improvements to portions of the burial
10 grounds not available for right of burial sales, and designated
11 for ornamental purposes.

12 (2) Except as provided in subsection (3), the cemetery owner
13 shall each month after the effective date of this act deposit
14 into the fund not less than 15% of all proceeds received by that
15 cemetery owner during the preceding month from the sale of rights
16 of burial. The total deposit into the fund for the sale of a
17 single adult right of burial shall not be less than \$20.00.

18 (3) If a cemetery owner has more than \$125,000.00 in the
19 fund created under this section, and that amount exceeds
20 \$10,000.00 per acre of the developed portion of that cemetery
21 owner's burial ground, the cemetery owner may apply to the
22 department for a waiver of the requirements identified in subsec-
23 tion (2). The department may grant the waiver upon determining
24 that the waiver applicant meets the requirements of this subsec-
25 tion and that the income from the fund established by the appli-
26 cant under this section is sufficient to meet the current costs
27 of maintaining the applicant's burial ground in good condition.

1 The department may additionally modify fund contribution
2 requirements for the waiver applicant. Within 90 days after the
3 effective date of this act, the department shall promulgate rules
4 establishing the procedures for applications under this section.

5 (4) The fund shall not directly or indirectly compensate
6 officers or directors of a corporation that owns the cemetery.

7 (5) The fund established under this section shall be
8 invested in the manner prescribed by Act No. 177 of the Public
9 Acts of 1937, being sections 555.201 to 555.203 of the Michigan
10 Compiled Laws.

11 (6) A cemetery may act as trustee for the management of a
12 gift, grant, bequest, or conveyance of personal property in
13 trust, and as trustee shall comply with the terms and conditions
14 of the instrument creating the trust. Except as provided by fed-
15 eral law, a trust established under this subsection that violates
16 a rule or law prohibiting the accumulation of income is not
17 invalidated by that rule or law.

18 (7) On or before June 30 of each year, a cemetery shall file
19 with the state department and the department of commerce a report
20 prepared by a certified public accountant that provides an
21 accounting of each of the following:

22 (a) All proceeds received by that cemetery during the pre-
23 ceding calendar year from the sale of rights of burial.

24 (b) All amounts deposited into the fund during the preceding
25 calendar year.

1 (8) A fund created under this section is subject to Act
2 No. 280 of the Public Acts of 1915, being sections 554.351 to
3 554.353 of the Michigan Compiled Laws.

4 (9) A cemetery that meets each of the following conditions
5 is exempt from all but the reporting requirements of this
6 section:

7 (a) The cemetery is the exclusive owner and operator of a
8 burial ground of less than 10 acres and within which deceased
9 persons are solely interred in the ground.

10 (b) Before March 10, 1967, the cemetery existed, and
11 deceased persons were interred in the burial ground described in
12 subdivision (a).

13 (c) The cemetery is solely a crematory that does not provide
14 for inurnment.

15 Sec. 50. Except as otherwise provided by federal law, land
16 platted for a burial ground under this act and rights of burial
17 within that land are exempt from taxation of any kind.

18 Sec. 51. A cemetery shall not mortgage or encumber cemetery
19 land that is actually used as a burial ground, and shall not
20 grant rights of burial upon any of the following:

21 (a) Land to which the cemetery does not hold title in fee,
22 or for which a tax or assessment is delinquent.

23 (b) Land that is mortgaged or encumbered.

24 Sec. 52. The state or a municipal corporation may take
25 rural cemetery land pursuant to the uniform condemnation proce-
26 dures act, Act 87 of the Public Acts of 1980, being sections
27 213.51 to 213.77 of the Michigan Compiled Laws. A municipal

1 corporation shall not prohibit or prevent a rural cemetery from
2 purchasing property within that municipal corporation to substi-
3 tute for the condemned property.

4 Sec. 53. (1) Pursuant to a written agreement, 10 or more
5 persons may organize to purchase land for a rural cemetery. The
6 organization may do each of the following:

7 (a) Levy assessments upon each organization member, in an
8 amount that does not exceed that member's contribution to the
9 organization.

10 (b) Enforce collection of assessments levied pursuant to
11 subdivision (a).

12 (c) Plat rural cemetery land for cemetery purposes, subject
13 to subsection (2).

14 (d) Impose conditions the organization determines appropri-
15 ate for burials within the land platted pursuant to subdivision
16 (c).

17 (e) Establish rules and regulations for the control and man-
18 agement of land platted pursuant to subdivision (c).

19 (f) Except as provided in subsection (3), sell all or a por-
20 tion of land owned by the rural cemetery that is not occupied or
21 required for use as a burial ground.

22 (g) Subject to the limitations imposed under this part,
23 invest money received from the sale of rights of burial, and pre-
24 scribe from time to time the interest or dividends to be paid to
25 persons who possess an ownership interest in the rural cemetery
26 organization.

1 (2) Unless otherwise provided by law, the rural cemetery
2 organization shall not alter or modify a plat adopted pursuant to
3 subsection (1)(c) if that alteration or modification interferes
4 with a previously issued right of burial. The rural cemetery
5 organization may make a plat alteration or modification that does
6 not interfere with a previously issued right of burial only under
7 the following circumstances:

8 (a) A special notice of the proposed alteration or modifica-
9 tion is provided to all persons who possess a right of burial in
10 that cemetery.

11 (b) Provide a refund of the purchase price of a right of
12 burial in the cemetery upon the purchaser's written request.

13 (3) A rural cemetery organization shall not convey all or a
14 portion of land platted pursuant to subsection (1)(c) unless that
15 organization receives at least \$5,000.00 for each acre conveyed,
16 and allocates that money to a perpetual care fund.

17 Sec. 54. If a court grants a petition filed by a cemetery
18 or municipal corporation and issues an order to vacate all or a
19 part of a cemetery, the party that filed the petition shall
20 record a certified copy of that order with the register of deeds
21 in the county within which the cemetery is situated.

22 Sec. 55. (1) If a court orders the vacating of a burial
23 ground under this act, the party that petitioned for the order
24 shall provide for the reinterment of dead bodies from that burial
25 ground to a burial ground approved by the director.

1 (2) A petitioner who obtains a court order authorizing the
2 vacating of all or a part of a burial ground shall do each of the
3 following:

4 (a) Provide for the disinterment and reinterment of dead
5 bodies under this section in a prudent manner.

6 (b) Assure that each permanent marker, monument, and fence
7 that designates a burial site is removed from the vacated burial
8 ground and erected at each reinterment site.

9 (c) Obtain the approval of the director before proceeding
10 with a disinterment.

11 Sec. 56. A cemetery that operates a crematory shall main-
12 tain a record identifying the name, age, and last known address
13 of each person whose dead body is cremated in a crematorium main-
14 tained by the cemetery. The record required under this section
15 shall additionally include identification of the number of crema-
16 tion permits issued, and the name of the officiating funeral
17 director.

18 Sec. 57. A cemetery that has a crematory or columbarium
19 shall ensure that the grounds of a crematory or columbarium are
20 appropriately designed and maintained.

21 Sec. 58. A cemetery that maintains a crematory or columbar-
22 ium and that receives money from the sale of niches in a colum-
23 barium shall deposit 1/2 of the sale proceeds to a trust account
24 until an amount the department determines sufficient has accumu-
25 lated in the trust fund to ensure perpetual maintenance of the
26 columbarium. Upon the accumulation of a sufficient amount of
27 money in the trust account, the cemetery may transfer that money

1 into the treasury of the cemetery. The cemetery shall invest
2 money received from the trust fund only in those securities that
3 are approved by the department. All interest or dividends
4 received from an investment described in this subsection shall be
5 paid to the cemetery to be used in the manner permitted under
6 this act.

7 Sec. 59. (1) Five or more persons who wish to organize an
8 association for the purpose of preserving and protecting bodies
9 of deceased persons before burial may incorporate for that
10 purpose.

11 (2) The articles of incorporation shall contain all of the
12 following:

13 (a) The full names of the persons associating in the first
14 instance, and the place of residence of each person.

15 (b) The name of such corporation, and the place where its
16 office for the transaction of business is located and the period
17 for which it is incorporated. This period shall not exceed 30
18 years.

19 (c) The object for which the association is organized.

20 (d) The number and names of its trustees, if any, and regu-
21 lar officers, and the time and place of its annual meeting.

22 (e) The terms and conditions of membership in the
23 association.

24 (f) Amount of capital stock, number of shares, by whom
25 taken, value of each share, and amount paid in on each share.

26 (3) The corporation authorized under this section may
27 purchase or take by devise or gift, hold, and convey, real estate

1 not exceeding 3 acres of land, and may erect thereon, a vault and
2 such other suitable buildings necessary to carry out the objects
3 of said association.

4 Sec. 60. The following acts are repealed:

5 (a) Act No. 87 of the Public Acts of 1855, being
6 sections 456.1 to 456.36 of the Michigan Compiled Laws.

7 (b) Act No. 215 of the Public Acts of 1861, being
8 section 327.301 of the Michigan Compiled Laws.

9 (c) Act No. 12 of the Public Acts of 1869, being
10 sections 456.101 to 456.119 of the Michigan Compiled Laws.

11 (d) Act No. 164 of the Public Acts of 1871, being
12 sections 128.41 to 128.45 of the Michigan Compiled Laws.

13 (e) Act No. 88 of the Public Acts of 1875, being
14 sections 128.111 to 128.112 of the Michigan Compiled Laws.

15 (f) Act No. 13 of the Public Acts of 1882, being
16 sections 456.251 to 456.253 of the Michigan Compiled Laws.

17 (g) Act No. 49 of the Public Acts of 1895, being
18 sections 128.31 to 128.36 of the Michigan Compiled Laws.

19 (h) Act No. 81 of the Public Acts of 1903, being
20 sections 128.81 to 128.88 of the Michigan Compiled Laws.

21 (i) Act No. 95 of the Public Acts of 1909, being
22 sections 128.71 to 128.74 of the Michigan Compiled Laws.

23 (j) Act No. 272 of the Public Acts of 1909, being
24 sections 128.151 to 128.164 of the Michigan Compiled Laws.

25 (k) Act No. 211 of the Public Acts of 1911, being
26 sections 128.101 to 128.103 of the Michigan Compiled Laws.

1 (l) Act No. 58 of the Public Acts of 1915, being
2 sections 456.201 to 456.213 of the Michigan Compiled Laws.

3 (m) Act No. 113 of the Public Acts of 1915, being
4 sections 128.61 to 128.62 of the Michigan Compiled Laws.

5 (n) Act No. 10 of the Public Acts of 1927, being
6 sections 456.181 to 456.184 of the Michigan Compiled Laws.

7 (o) Act No. 185 of the Public Acts of 1929, being
8 sections 456.51 to 456.52 of the Michigan Compiled Laws.

9 (p) Act No. 46 of the Public Acts of 1931, being
10 sections 128.11 to 128.16 of the Michigan Compiled Laws.

11 (q) Act No. 215 of the Public Acts of 1937, being
12 sections 128.1 to 128.3 of the Michigan Compiled Laws.

13 (r) Act No. 251 of the Public Acts of 1968, being
14 sections 456.521 to 456.543 of the Michigan Compiled Laws.