

# HOUSE BILL No. 6184

September 30, 1992, Introduced by Reps. Gire, Munsell, Barns, Varga and DeMars and referred to the Committee on Consumers.

A bill to regulate pet cemeteries; to regulate the sale of pet cemetery merchandise and services; and to prescribe penalties and remedies.

## THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1       Sec. 1. This act shall be known and may be cited as the  
2 "pet cemetery regulation act".

3       Sec. 3. As used in this act:

4       (a) "Columbarium" means a structure, room, or other space in  
5 a building used or intended to be used for inurnment or deposit  
6 of cremated pet remains.

7       (b) "Communal burial" means the interment of pet remains in  
8 a grave designed to contain more than 1 pet in compliance with  
9 Act No. 239 of the Public Acts of 1982, being sections 287.651 to  
10 287.683 of the Michigan Compiled Laws.

1 (c) "Dedication" means a restriction placed on the deed of  
2 certain property which restricts the property to pet cemetery  
3 use.

4 (d) "Endowed care fund" means money or assets that are col-  
5 lected or received from pet owners or others for individual buri-  
6 als and are placed in a trust fund to be used exclusively for the  
7 ongoing care, maintenance, operation, and supervision of the pet  
8 cemetery.

9 (e) "Group cremation" means the cremation of pets communally  
10 with no separation of remains.

11 (f) "Individual burial" means the interment of a single  
12 pet's remains in a separate grave in a nonbiodegradable container  
13 except that this act does not prevent the interment of more than  
14 1 pet in a grave with the written consent of the pet owner.

15 (g) "Individual cremation" means the cremation of a single  
16 pet's remains in a manner that separates the pet's remains from  
17 those of other pet remains.

18 (h) "Maintenance fee" means a fee that is collected on indi-  
19 vidual pet burials that is separate from the endowed care fund  
20 and that is placed in the general fund of the cemetery for the  
21 care and maintenance of individual pet gravesites.

22 (i) "Mausoleum" means a structure used, or intended to be  
23 used, for the entombment of the remains of deceased pets in a  
24 crypt or crypts in the structure.

25 (j) "Nonbiodegradable container" means a container that is  
26 incapable of being readily decomposed by biological means,  
27 especially by bacterial action.

1 (k) "Person" means an individual, corporation, association,  
2 partnership, local unit of government, or other legal entity.

3 (l) "Pet" means an animal that has been tamed or adapted to  
4 live in close association with human beings. Pet includes, but  
5 is not limited to, dogs, cats, birds, rabbits, hamsters, fish,  
6 reptiles, horses, large cats, and exotic animals.

7 (m) "Pet cemetery" means any land, place, structure, facili-  
8 ty, or building provided by any person for a fee, whether or not  
9 for profit, to any person for use, or reservation for use, for  
10 the individual interment below ground or entombment above ground  
11 of pet remains. Pet cemetery does not include land used exclu-  
12 sively for landfilling or the communal burial of pets, but does  
13 include a portion of the land in a pet cemetery which is used for  
14 communal burial of pets. Pet cemetery includes, but is not  
15 limited to, 1 or a combination of more than 1 of the following:

16 (i) A burial ground for earth interment of pets.

17 (ii) A mausoleum for crypt entombment of pets.

18 (iii) A crematory for the cremation of pet remains.

19 (iv) A columbarium for the deposit of cremated pet remains.

20 (n) "Pet crematorium" means any land, structure, or facility  
21 provided by any person for a fee, whether or not for profit, to  
22 veterinarians or members of the general public for the individual  
23 or communal cremation of pets.

24 (o) "Pet owner" means the person who is listed in the veter-  
25 inary records or pet cemetery or crematory records as the owner  
26 of a pet. If a pet owner is a minor, then a parent or legal

1 guardian is considered the owner of the pet for the purpose of  
2 the disposal form required in section 21.

3       Sec. 5. (1) Except as otherwise provided in section 33, the  
4 owner of any land or a portion of land that is clear of any  
5 encumbrance that is being used or proposed to be used as a pet  
6 cemetery shall file a dedication in the office of the register of  
7 deeds of the county in which the land is located. The owner  
8 shall execute the dedication in the same manner and with the  
9 effect as a conveyance of an interest in land. The register of  
10 deeds shall record the dedication in the record of deeds. Unless  
11 the restriction is removed, a person shall not use land  
12 restricted as provided for in this section for any purposes other  
13 than a pet cemetery.

14       (2) Except as otherwise provided in section 31(1), if pet  
15 cemetery property has an encumbrance on it by a financial insti-  
16 tution or private individual whose interest is first on the deed,  
17 the owners of record of the pet cemetery shall set forth proper  
18 and legal estate planning and trust arrangements, including mort-  
19 gage or life insurance policies, in place to pay in full the  
20 encumbrance on the property in the event of his or her death, at  
21 which time the personal representative of the estate shall file  
22 with the register of deeds the dedication of the deed.

23       Sec. 7. (1) Except as otherwise provided in section 31(2),  
24 a person operating a pet cemetery in this state shall establish  
25 an endowed care fund from which proceeds from a portion of the  
26 sale of the individual burial rights are placed in a trust fund  
27 established for the purposes described in this act. The proceeds

1 shall represent not less than 15% of the sale price of the  
2 cemetery plot. All fees collected for endowed care shall be  
3 deposited not later than 30 days after the time of receipt of  
4 payment.

5       (2) Beginning on the effective date of this act, a pet ceme-  
6 tery shall charge an endowed care fee to the purchaser of indi-  
7 vidual burial rights. If the endowed care fee on an individual  
8 burial remains unpaid for a period of 180 days following the  
9 interment, the cemetery owner, after serving notice to the pet  
10 owner by registered mail at the last known address of the owner,  
11 may reclaim the land for cemetery use and dispose of the pet's  
12 remains in a manner that he or she so chooses.

13       (3) The income from the endowed care trust fund shall be  
14 used for the care, maintenance, and supervision of the cemetery  
15 and may be used to satisfy property taxes and fees for accounting  
16 and annual reports. The annual report of the fund shall be  
17 available by request in writing by any pet owner with burial  
18 rights to the cemetery.

19       (4) The pet cemetery may include in its customary charges a  
20 maintenance fee for the immediate maintenance of the burial site  
21 except that the fee shall not exceed the fee charged for endowed  
22 care. The fees for maintenance shall be deposited in the general  
23 cemetery account and used for cemetery maintenance only.

24       (5) If the maintenance fees for an individual burial remain  
25 unpaid for a period of 180 days following billing, the owner of  
26 the cemetery, after serving notice on the pet owner by registered

1 mail at the last known address of the owner, may reclaim the land  
2 and dispose of the pet in a manner that he or she so chooses.

3       Sec. 9. A person desiring to establish a pet cemetery shall  
4 deposit a sum of \$10,000.00 in an endowed trust fund to be han-  
5 dled in accordance with this act. At such time that the cemetery  
6 has generated an additional \$10,000.00 in funds that have been  
7 placed in the account from the individual burial of pets whose  
8 endowed care fees have been paid, the owner of the original  
9 \$10,000.00 deposited into the account can then withdraw his or  
10 her funds.

11       Sec. 11. A person shall not operate a pet cemetery in this  
12 state that is less than 3 acres in size unless that pet cemetery  
13 was established before the effective date of this act.

14       Sec. 13. A pet cemetery offering to make arrangements in  
15 advance of interment for individual burials after the effective  
16 date of this act shall place 130% of the costs of tangible goods  
17 including, but not limited to, caskets and grave markers in a  
18 preneed fund separate from the general fund of the cemetery, to  
19 be held until such time as used for the pet's interment.

20       Sec. 15. (1) A pet owner having burial rights in the ceme-  
21 tery shall keep the owner of the pet cemetery fully informed of  
22 his or her current mailing address.

23       (2) If 10 years pass after the purchase of preneed burial  
24 arrangements without use or notification of a current address,  
25 the property reverts back to the pet cemetery for resale. All  
26 funds held on deposit for that individual customer for tangible  
27 items may be deposited in the general fund of the pet cemetery.

1 If the owner of record comes forward after the 10-year period,  
2 the pet cemetery shall reassign an interment right of equal value  
3 in as close proximity to the original location as possible and at  
4 no additional cost to the owner.

5       Sec. 17. A person operating a pet cemetery shall keep accu-  
6 rate and complete records of all burial agreements, preneed  
7 arrangements, and endowed care deposits. Copies of all records  
8 shall be kept in duplicate and 1 copy kept in such a manner to be  
9 protected from destruction from any unforeseen events.

10       Sec. 19. (1) A person operating a pet crematorium shall  
11 keep accurate and complete records of each pet that it privately  
12 cremates, including the owner's name, address, pet's name, breed,  
13 color, weight, and date of acquiring the pet's body and delivery  
14 of remains. All cremation records will be held by the pet crema-  
15 torium for a period of not less than 1 year following the  
16 cremation.

17       (2) A person operating a pet crematorium shall have the  
18 proper permits in place from the department of natural resources  
19 air quality control division and otherwise comply with applicable  
20 state and federal laws.

21       Sec. 21. (1) A pet cemetery shall disclose to the client  
22 disposal options available, whether communal burial, group crema-  
23 tion, landfill, rendering, or individual burial or cremation.  
24 The pet cemetery shall make this disclosure on a form which shall  
25 be signed by the pet owner.

26       (2) When the pet owner has chosen individual burial or  
27 cremation for his or her pet, a copy of the disposal form shall

1 be provided to the pet cemetery to keep with the pet's permanent  
2 records.

3 (3) If a pet owner is not available to execute the disposal  
4 form, a veterinarian in charge may execute the form acting upon  
5 the request of the pet owner.

6 (4) If the pet owner cannot be found, a disposal form is not  
7 required.

8 Sec. 23. A person owning a parcel of land other than a pet  
9 cemetery or landfill that is used for the communal burial of pets  
10 shall file a declaration on the deed to that property stating  
11 that the land has been used as a communal pet burial ground and  
12 shall also file a copy of that declaration with the director of  
13 the department of natural resources, solid waste management  
14 division.

15 Sec. 25. This act does not exempt a person establishing a  
16 pet cemetery from obtaining any use permits from the local unit  
17 of government having jurisdiction over the land in which a pet  
18 cemetery is located or a proposed pet cemetery is to be located.

19 Sec. 27. (1) A court of competent jurisdiction shall remove  
20 the dedication of the land upon proof satisfactory to the court  
21 that any or all of the following have occurred:

22 (a) No interments have been made in the dedicated land.

23 (b) All pet remains have been removed from the land from  
24 which the dedication is to be removed and notice was given in the  
25 manner provided for in section 29.

26 (c) The owner of the pet cemetery or his or her heirs or  
27 assigns have received from those persons who own burial rights in

1 the cemetery written authorization acknowledged before a notary  
2 public to remove the dedication on the land.

3 (2) A person granting authorization to have a pet that is  
4 already interred in the pet cemetery removed and reinterred else-  
5 where shall so state on the authorization and the pet cemetery  
6 owner shall, at his or her expense, remove the pet's remains and  
7 have them reinterred elsewhere, providing proof of this removal  
8 and reinterment.

9 (3) If a preneed burial right purchase has been made but has  
10 not been used and the pet cemetery owner refunds the purchase  
11 price plus interest, the interest shall be computed in a manner  
12 and at a rate agreed upon between the pet cemetery and the owner  
13 of the burial right but not to exceed the current rate of  
14 interest.

15 Sec. 29. (1) If there is no current address or location of  
16 an owner of record to burial rights, the pet cemetery owner shall  
17 publish a notice in a newspaper of general circulation for a  
18 period of 2 weeks that the pet cemetery owner intends to remove  
19 the remains and reinter them in another pet cemetery within the  
20 state at his or her own expense to satisfy the court for the  
21 removal of the restriction as described in section 27.

22 (2) On the reinterment of all pets from the cemetery before  
23 the removal of the restriction as described in section 27, the  
24 owner of the cemetery shall deposit all necessary endowed care  
25 funds from the established endowed care fund of the cemetery to  
26 be sold to the existing cemetery or cemeteries accepting the pets  
27 for burial so that the endowed care will continue for those pets'

1 graves. Any remaining earnings in the endowed care fund shall be  
2 used at the pet cemetery owner's discretion to place the cemetery  
3 that is to be sold back to marketable condition following the  
4 removal of all gravesites.

5       Sec. 31. (1) Any person owning a pet cemetery which is  
6 organized or developed and operating on the effective date of  
7 this act is exempt from complying with section 5 for 2 years  
8 after the effective date of this act.

9       (2) Any person owning a pet cemetery which is organized or  
10 developed and operating on the effective date of this act is  
11 exempt from complying with section 7 for 1 year after the effec-  
12 tive date of this act.

13       Sec. 33. (1) A person who violates this act is guilty of a  
14 misdemeanor, punishable by a fine of not less than \$2,000.00,  
15 community service work for not less than 120 hours, or imprison-  
16 ment for not less than 90 days, or any combination thereof, and  
17 the costs of prosecution.

18       (2) A person who violates this act a second or subsequent  
19 time is guilty of a felony, punishable by a fine of not less than  
20 \$5,000.00, community service work for not less than 240 hours, or  
21 imprisonment for not less than 180 days, or any combination  
22 thereof, and the costs of prosecution.