



# SENATE BILL No. 86

January 13, 1993, Introduced by Senator HONIGMAN and referred to the Committee on State Affairs and Military/Veteran Affairs.

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) "Crypt" means a chamber in a mausoleum of sufficient  
2 size to entomb the uncremated remains of a deceased pet.

3 (d) "Dedication" means a restriction placed on the deed of  
4 certain property that restricts the property to pet cemetery  
5 use.

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

11 (f) "Group cremation" means the cremation of pets communally  
12 with no separation of remains.

13 (g) "Individual burial" means the interment of a single  
14 pet's remains in a separate grave in a nonbiodegradable  
15 container.

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

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

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

1 (k) "Nonbiodegradable container" means a container that is  
2 incapable of being readily decomposed by biological means,  
3 especially by bacterial action.

4 (l) "Person" means an individual, partnership, corporation,  
5 association, governmental entity, or other legal entity.

6 (m) "Pet" means an animal that has been tamed or adapted to  
7 live in close association with human beings. Pet includes, but  
8 is not limited to, a dog, cat, bird, rabbit, hamster, fish, rep-  
9 tile, horse, large cat, and exotic animal.

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

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

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

21 (iii) A columbarium for the deposit of cremated pet  
22 remains.

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

1       (p) "Pet owner" means the person who is listed in the  
2 veterinary records or pet cemetery or crematory records as the  
3 owner of a pet. If a pet owner is a minor, then a parent or  
4 legal guardian is considered the owner of the pet for the purpose  
5 of the disposal form required in section 21.

6       (q) "Veterinarian" means a person licensed to practice vet-  
7 erinary medicine under article 15 of the public health code, Act  
8 No. 368 of the Public Acts of 1978, being sections 333.16101 to  
9 333.18838 of the Michigan Compiled Laws, or under a state or fed-  
10 eral law applicable to that person.

11       Sec. 5. (1) Except as otherwise provided in section 35, the  
12 owner of any land or a portion of land that is clear of any  
13 encumbrance that is being used or proposed to be used as a pet  
14 cemetery shall file a dedication in the office of the register of  
15 deeds of the county in which the land is located. The owner  
16 shall execute the dedication in the same manner and with the  
17 effect as a conveyance of an interest in land. The register of  
18 deeds shall record the dedication in the record of deeds. Unless  
19 the restriction is removed, a person shall not use land  
20 restricted as provided for in this section for any purposes other  
21 than a pet cemetery.

22       (2) Except as otherwise provided in section 33(1), if pet  
23 cemetery property has an encumbrance on it by a financial insti-  
24 tution or private individual whose interest is first on the deed,  
25 the owners of record of the pet cemetery shall set forth proper  
26 and legal estate planning and trust arrangements, including  
27 mortgage or life insurance policies, in place to pay in full the

1 encumbrance on the property in the event of his or her death, at  
2 which time the personal representative of the estate shall file  
3 with the register of deeds the dedication of the deed.

4       Sec. 7. (1) Except as otherwise provided in section 33(2),  
5 a person operating a pet cemetery in this state shall establish  
6 an endowed care fund from which proceeds from a portion of the  
7 sale of the individual burial rights are placed in a trust fund  
8 established for the purposes described in this act. The proceeds  
9 shall represent not less than 15% of the sale price of the ceme-  
10 tery plot. All fees collected for endowed care shall be depos-  
11 ited not later than 30 days after the time of receipt of  
12 payment.

13       (2) Beginning on the effective date of this act, a pet ceme-  
14 tery shall charge an endowed care fee to the purchaser of indi-  
15 vidual burial rights. If the endowed care fee on an individual  
16 burial remains unpaid for a period of 180 days after interment,  
17 the cemetery owner, after serving notice to the pet owner by reg-  
18 istered mail at the last known address of the owner, may reclaim  
19 the land for cemetery use and dispose of the pet's remains in a  
20 manner that he or she so chooses under this act and Act No. 239  
21 of the Public Acts of 1982, being sections 287.651 to 287.683 of  
22 the Michigan Compiled Laws.

23       (3) The income from the endowed care trust fund shall be  
24 used for the care, maintenance, and supervision of the cemetery  
25 and may be used to satisfy property taxes and fees for accounting  
26 and annual reports. The annual report of the fund shall be

1 available by request in writing by any pet owner with burial  
2 rights to the cemetery.

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

8       (5) If the maintenance fees for an individual burial remain  
9 unpaid for a period of 180 days after billing, the owner of the  
10 cemetery, after serving notice on the pet owner by registered  
11 mail at the last known address of the owner, may reclaim the land  
12 and dispose of the pet in a manner that he or she so chooses  
13 under this act and Act No. 239 of the Public Acts of 1982.

14       Sec. 9. A person desiring to establish a pet cemetery shall  
15 deposit a sum of \$10,000.00 in an endowed trust fund to be han-  
16 dled in accordance with this act. When the cemetery has gener-  
17 ated an additional \$10,000.00 in funds that have been placed in  
18 the account from the individual burial of pets whose endowed care  
19 fees have been paid, the owner of the original \$10,000.00 depos-  
20 ited into the account may then withdraw his or her funds.

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

24       Sec. 13. After the effective date of this act, a pet ceme-  
25 tery offering to make arrangements in advance of interment for  
26 individual burials shall place 130% of the costs of tangible  
27 goods including, but not limited to, caskets and grave markers in

1 a preneed fund, separate from the general fund of the cemetery,  
2 to be held until the time of the pet's interment.

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

6       (2) If 10 years pass after the purchase of preneed burial  
7 arrangements without use or notification of a current address,  
8 the property reverts back to the pet cemetery for resale. All  
9 funds held on deposit for that individual customer for tangible  
10 items may be deposited in the general fund of the pet cemetery.  
11 If the owner of record comes forward after the 10-year period,  
12 the pet cemetery shall reassign an interment right of equal value  
13 in as close proximity to the original location as possible and at  
14 no additional cost to the owner.

15       Sec. 17. A person operating a pet cemetery shall keep accu-  
16 rate and complete records of all burial agreements, preneed  
17 arrangements, and endowed care deposits. Copies of all records  
18 shall be kept in duplicate and 1 copy shall be kept in a manner  
19 that protects it from destruction by any unforeseen event.

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

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

5       Sec. 21. (1) A pet cemetery shall disclose to the client  
6 disposal options available, whether communal burial, group crema-  
7 tion, landfill, rendering, or individual burial or cremation.  
8 The pet cemetery shall make this disclosure on a form which shall  
9 be signed by the pet owner. More than 1 pet may be interred in a  
10 grave in a nonbiodegradable container if the pet owner consents  
11 in writing.

12       (2) When the pet owner has chosen individual burial or cre-  
13 mation for his or her pet, a copy of the disposal form shall be  
14 provided to the pet cemetery to keep with the pet's permanent  
15 records.

16       (3) If a pet owner is not available to execute the disposal  
17 form, a veterinarian in charge may execute the form acting upon  
18 the written or verbal request of the pet owner.

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

21       Sec. 23. A person owning a parcel of land other than a pet  
22 cemetery or landfill that is used for the communal burial of pets  
23 shall file a declaration on the deed to that property stating  
24 that the land has been used as a communal pet burial ground and  
25 shall also file a copy of that declaration with the director of  
26 the department of natural resources, solid waste management  
27 division.



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

5        Sec. 27. A pet cemetery that has dedicated the cemetery  
6 land for the sole use of cemetery purposes and has the endowed  
7 trust established is exempt from the tax levied under the general  
8 property tax act, Act No. 206 of the Public Acts of 1893, being  
9 sections 211.1 to 211.157 of the Michigan Compiled Laws.

10       Sec. 29. (1) A court of competent jurisdiction shall remove  
11 the dedication of the land upon proof satisfactory to the court  
12 that 1 or more of the following have occurred:

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

14       (b) All pet remains have been removed from the land from  
15 which the dedication is to be removed and notice was given in the  
16 manner provided for in section 31.

17       (c) The owner of the pet cemetery or his or her heirs or  
18 assigns have received from those persons who own burial rights in  
19 the cemetery written authorization acknowledged before a notary  
20 public to remove the dedication on the land.

21       (2) A person granting authorization to have a pet that is  
22 already interred in the pet cemetery removed and reinterred else-  
23 where shall state that fact on the authorization, and the pet  
24 cemetery owner, at his or her expense, shall remove the pet's  
25 remains and have them reinterred elsewhere, providing proof of  
26 this removal and reinterment.

1       (3) If a preneed burial right purchase has been made but has  
2 not been used and the pet cemetery owner refunds the purchase  
3 price plus interest, the interest shall be computed in a manner  
4 and at a rate agreed upon between the pet cemetery and the owner  
5 of the burial right but not to exceed the average current rate of  
6 interest for savings accounts.

7       Sec. 31. (1) If there is no current address or location of  
8 an owner of record to burial rights, the pet cemetery owner shall  
9 publish a notice in a newspaper of general circulation for a  
10 period of 2 weeks that the pet cemetery owner intends to remove  
11 the remains and reinter them in another pet cemetery within this  
12 state at his or her own expense to satisfy the court for the  
13 removal of the restriction as described in section 29.

14       (2) On the reinterment of all pets from the cemetery before  
15 the removal of the restriction as described in section 29, the  
16 owner of the cemetery shall deposit all necessary endowed care  
17 funds from the established endowed care fund of the cemetery to  
18 be sold to the existing cemetery or cemeteries accepting the pets  
19 for burial so that the endowed care will continue for those pets'  
20 graves. Any remaining earnings in the endowed care fund shall be  
21 used at the pet cemetery owner's discretion to place the cemetery  
22 that is to be sold back to marketable condition following the  
23 removal of all gravesites.

24       Sec. 33. (1) Any person owning a pet cemetery that is orga-  
25 nized or developed and operating on the effective date of this  
26 act is exempt from complying with section 5 for 2 years after the  
27 effective date of this act.

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

5       Sec. 35. (1) A person who violates this act is guilty of a  
6 misdemeanor, punishable by a fine of not less than \$2,000.00,  
7 community service work for not less than 120 hours, or imprison-  
8 ment for not less than 90 days, or any combination thereof, and  
9 the costs of prosecution.

10       (2) A person who violates this act a second or subsequent  
11 time is guilty of a felony, punishable by a fine of not less than  
12 \$5,000.00, community service work for not less than 240 hours, or  
13 imprisonment for not less than 180 days, or any combination  
14 thereof, and the costs of prosecution.