
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 815 Session of
2015

INTRODUCED BY MILLARD, COHEN, D. COSTA, KOTIK, McNEILL, MOUL,
READSHAW AND WATSON, MARCH 23, 2015

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, MARCH 23, 2015

AN ACT

1 Providing for the licensing and regulation of cremation;
2 prescribing penalties; and establishing the Crematory
3 Regulation Fund.

4 TABLE OF CONTENTS

5 Chapter 1. Preliminary Provisions

6 Section 101. Short title.

7 Section 102. Definitions.

8 Chapter 3. Licensure

9 Section 301. Licensure of crematory.

10 Section 302. Crematory license fee.

11 Section 303. Inspection of records and facilities.

12 Section 304. Prohibition.

13 Section 305. Crematory personnel.

14 Section 306. Initial applications.

15 Chapter 5. Regulation of Cremation Practices

16 Section 501. Authorizing agent.

17 Section 502. Authorization to cremate.

18 Section 503. Unidentified remains.

1 Section 504. Cremation records and required information.
2 Section 505. Sale of crematory.
3 Section 506. Cremation containers.
4 Section 507. Cremation procedures.
5 Section 508. Removal of body parts.
6 Section 509. Sale or disposal of prosthetics and valuables.
7 Section 510. Disposition of cremated remains.
8 Section 511. Veterans.
9 Section 512. Limitation of liability.
10 Chapter 7. Administration and Enforcement
11 Section 701. Administration.
12 Section 702. Crematory policies.
13 Section 703. Actions against unlicensed crematory.
14 Section 704. Actions against violations of law, rules and
15 regulations.
16 Section 705. Closure for threat to health or safety.
17 Section 706. Preneed cremation arrangements.
18 Chapter 9. Crematory Regulation Fund
19 Section 901. Fund established.
20 Section 902. Disposition of money.
21 Chapter 21. Miscellaneous Provisions
22 Section 2101. Effective date.

23 The General Assembly of the Commonwealth of Pennsylvania
24 hereby enacts as follows:

25 CHAPTER 1

26 PRELIMINARY PROVISIONS

27 Section 101. Short title.

28 This act shall be known and may be cited as the Cremation
29 Act.

30 Section 102. Definitions.

1 The following words and phrases when used in this act shall
2 have the meanings given to them in this section unless the
3 context clearly indicates otherwise:

4 "Authorizing agent." A person, including the medical
5 examiner or coroner, who is legally entitled to authorize the
6 cremation of human remains.

7 "Body parts." Organs, tissues, eyes, bones, blood, blood
8 vessels and other portions of the human anatomy.

9 "Casket." A rigid container designed for the encasement of
10 human remains, usually constructed of wood, metal or like
11 material, which may or may not be combustible.

12 "Cemetery." A place for the disposal or burial of deceased
13 human beings, by cremation or in a grave, mausoleum, vault,
14 columbarium or other receptacle.

15 "Change of ownership." A transfer of more than 50% of the
16 stock or assets of a crematory licensee.

17 "Closed container." Any container in which cremated remains
18 can be placed and closed in a manner so as to prevent leakage or
19 spillage of remains or the entrance of foreign material.

20 "Cremated remains." All the remains of the cremated human
21 body and its associated materials that may include the casket,
22 cremation container and acceptable personal belongings.

23 "Cremation." The technical process, using mechanical or
24 thermal dissolution, that reduces human remains to bone
25 fragments. The term includes the processing and pulverization of
26 the bone fragments.

27 "Cremation chamber." The enclosed space within which the
28 cremation process takes place. Cremation chambers licensed under
29 this act shall be used exclusively for the cremation of human
30 remains.

1 "Cremation container." The container in which the human
2 remains are placed in the cremation chamber for a cremation and
3 which container is:

4 (1) Composed of combustible materials suitable for
5 cremation.

6 (2) Able to be closed in order to provide a complete
7 covering for the human remains.

8 "Crematory." The building or portion of a building that
9 houses the cremation chamber and the holding facility.

10 "Crematory licensee." The legal entity or the authorized
11 representative of the legal entity which is licensed to operate
12 a crematory.

13 "Department." The Department of Health of the Commonwealth.

14 "Disposition permit." As required under the act of June 29,
15 1953 (P.L.304, No.66), known as the Vital Statistics Law of
16 1953.

17 "Final disposition." The burial or other disposition on a
18 permanent basis of a deceased human body, body parts or cremated
19 remains.

20 "Funeral director." As defined in the act of January 14,
21 1952 (1951 P.L.1898, No.522), known as the Funeral Director Law.

22 "Funeral establishment." Every place or premise approved by
23 the State Board of Funeral Directors where a licensed funeral
24 director conducts the professional practice of funeral directing
25 including the preparation, care and funeral services for the
26 human dead.

27 "Holding facility." An area within or adjacent to the
28 crematory facility designated for the retention of human remains
29 prior to cremation.

30 "Human remains." The body of a deceased person, or part of a

1 body or limb that has been removed from a living person,
2 including the body, part of a body or limb in any stage of
3 decomposition.

4 "Processing." The reduction of identifiable bone fragments
5 after the completion of the cremation process to unidentifiable
6 bone fragments.

7 "Pulverization." The reduction of identifiable bone
8 fragments after the completion of the cremation and processing
9 to unidentifiable granulated particles by manual or mechanical
10 means.

11 "Temporary container." A receptacle for cremated remains.

12 "Urn." A receptacle designed to encase the cremated remains
13 for interment and noninterment purposes.

14 CHAPTER 3

15 LICENSURE

16 Section 301. Licensure of crematory.

17 (a) Crematory.--Any person doing business in this
18 Commonwealth intending to erect, maintain and conduct a
19 crematory in this Commonwealth and provide the necessary
20 facilities for the cremation of human remains must be licensed
21 in accordance with the provisions of this act.

22 (b) Crematory licensee.--A crematory licensee shall be
23 subject to all Federal, State and local health and environmental
24 and zoning subdivision and land development requirements and
25 ordinances and shall obtain all necessary licenses and permits
26 from the State Board of Funeral Directors or the State Real
27 Estate Commission and the Federal and State environmental
28 agencies or other appropriate Federal, State or local agencies.

29 (c) Facilities.--License applications for crematories shall
30 be on forms furnished and prescribed by the department and shall

1 provide the following information:

2 (1) The name and address of the licensed operator as
3 shown on the permit issued by the Department of Environmental
4 Protection.

5 (2) A copy of the Department of Environmental Protection
6 permit and application.

7 (3) Proof of liability insurance for no less than
8 \$1,000,000.

9 (4) A detailed statement for each of the individuals
10 listed on the Department of Environmental Protection permit
11 under paragraph (2) providing employment for the last 10
12 years immediately preceding the permit issuance, any felony
13 or misdemeanor convictions in which fraud was an element of
14 the crime and any information about disciplinary actions or
15 the loss or suspension of any professional license in this
16 Commonwealth or any other state and, in particular, related
17 to the business of funeral directing or operation of a
18 cemetery or crematory.

19 (5) Copies of all other licenses or permits required for
20 a crematory to operate in this Commonwealth.

21 (6) Any further information that the department may
22 request.

23 Section 302. Crematory license fee.

24 (a) Fee.--A license application must be accompanied by a
25 license fee in the amount of \$1,000 for each legal entity to be
26 licensed under this act. The department may increase the fee by
27 regulation in an amount sufficient to cover the cost of
28 administration of this act.

29 (b) Annual report.--Each crematory licensee shall file an
30 annual report with the department, accompanied by an annual fee

1 in an amount to be determined by the department. The information
2 provided under section 301(c) must indicate any changes that
3 have occurred. The annual report shall be filed on or before
4 March 15 of each calendar year with the department. If a
5 crematory licensee fails to submit an annual report to the
6 department within the time specified in this section, the
7 department shall impose upon the crematory licensee a penalty of
8 \$1,000 for each day the crematory licensee remains delinquent in
9 submitting the annual report.

10 Section 303. Inspection of records and facilities.

11 All records relating to the operation of the crematory
12 licensee required to be filed under this act shall be subject to
13 inspection by the department. The department shall have the
14 authority to inspect the facilities at any time and must inspect
15 the facility on an unannounced annual basis.

16 Section 304. Prohibition.

17 No person or entity shall cremate any human remains, except
18 in a crematory licensed for this purpose as provided in this
19 act.

20 Section 305. Crematory personnel.

21 (a) Manager.--Each crematory shall be operated under the
22 supervision of a manager evidencing an understanding of the
23 applicable provisions of law.

24 (b) Training.--The crematory licensee or authorized
25 representative shall provide training to all crematory personnel
26 involved in the cremation process. This training shall lead to a
27 demonstrated knowledge on the part of an employee regarding
28 identification procedures used during cremation, operation of
29 the cremation chamber and processing equipment and all laws
30 relevant to the handling of cremated human remains. This

1 training shall be outlined in a written plan maintained by the
2 crematory licensee for inspection by an inspector. No employee
3 shall be allowed to operate any cremation equipment until the
4 employee has demonstrated an understanding of procedures
5 required to ensure that health and safety conditions are
6 maintained at the crematory and that cremated remains are not
7 commingled other than for residue. The crematory licensee shall
8 maintain a record to document that an employee has received
9 training. The license of the crematory shall be suspended if no
10 plan or training record is produced for review.

11 Section 306. Initial applications.

12 Applications for licensure under this act shall be accepted
13 by the department beginning within 12 months of the effective
14 date of this chapter.

15 CHAPTER 5

16 REGULATION OF CREMATION PRACTICES

17 Section 501. Authorizing agent.

18 Cremations may be performed only after the crematory has
19 received signed authorization from the authorizing agent or his
20 designated agent.

21 Section 502. Authorization to cremate.

22 (a) General rule.--Except as otherwise provided in this
23 chapter, a crematory licensee shall not cremate human remains
24 until it has received from the funeral director, the coroner or
25 medical examiner the following information:

26 (1) A cremation authorization form signed by an
27 authorizing agent. The cremation authorization form shall
28 have the name of the cremation licensee, its address and the
29 name of its manager prominently displayed on the top of the
30 form. The cremation authorization form shall contain, at a

1 minimum, the following information:

2 (i) The identity of the human remains, if known,
3 including status as a veteran, and the time and date of
4 death and verification that the remains have been
5 identified by the authorizing agent or a designated
6 representative, or the coroner or medical examiner
7 indicates the remains cannot be identified.

8 (ii) The name of the funeral director and funeral
9 establishment, where appropriate, that obtained the
10 cremation authorization.

11 (iii) Notification as to whether the death occurred
12 from a disease declared by the Centers for Disease
13 Control and Prevention (CDC) to be infectious, contagious
14 or communicable.

15 (iv) The name and address of the authorizing agent.

16 (v) A representation that the authorizing agent does
17 in fact have the right to authorize the cremation of the
18 decedent and that the authorizing agent is not aware of
19 any living person who has a superior or equal priority
20 right to that of the authorizing agent. In the event
21 there is another living person who has a superior or
22 equal priority right to the authorizing agent, the form
23 shall contain a representation that the authorizing agent
24 has made reasonable efforts to contact that person, has
25 been unable to do so and has no reason to believe that
26 the person would object to the cremation of the decedent.

27 (vi) Authorization for the crematory licensee to
28 cremate the human remains.

29 (vii) A statement that the human remains do not
30 contain a pacemaker or any other material or implant that

1 may be potentially hazardous or cause damage to the
2 cremation chamber or the operator of the crematory.

3 (viii) The name of the person authorized to receive
4 the cremated remains from the crematory licensee.

5 (ix) The signature of the authorizing agent
6 attesting to the accuracy of all representations
7 contained on the cremation authorization form.

8 (x) The cremation authorization form shall also be
9 signed by a funeral director, if any, who shall execute
10 the cremation authorization form as a witness and shall
11 not be responsible for any of the representations made by
12 the authorizing agent except the funeral director or
13 funeral establishment shall warrant to the crematory
14 licensee that the human remains delivered to the
15 crematory licensee have been positively identified as the
16 decedent listed on the cremation authorization form by
17 the authorizing agent or a designated representative of
18 the authorizing agent. Such identification shall be made
19 in person or by photograph or other identification as
20 approved by the department by the authorizing agent or
21 designated representative of the authorizing agent.

22 (2) A completed and executed disposition permit
23 indicating that human remains are to be cremated.

24 (b) Delegation.--If an authorizing agent is not available to
25 execute the cremation authorization form, that person may
26 delegate that authority to another person in writing, including
27 electronic transmission. A written delegation of authority of an
28 authorizing agent shall include:

29 (1) The name, address and relationship of the
30 authorizing agent to the decedent.

1 (2) The name and address of the person to whom authority
2 is delegated and that the person authorized under this
3 chapter may serve as the authorizing agent and execute the
4 cremation authorization form.

5 Section 503. Unidentified remains.

6 A crematory licensee shall not accept unidentified human
7 remains unless the coroner or medical examiner within this
8 Commonwealth is directing disposition of the remains pursuant to
9 a disposition permit. When the crematory licensee takes custody
10 of a cremation container subsequent to the human remains being
11 placed within it, the crematory licensee may rely on the
12 identification made before the body was placed in the cremation
13 container. The crematory licensee shall place appropriate
14 identification upon the exterior of the cremation container
15 based on the prior identification.

16 Section 504. Cremation records and required information.

17 (a) General rule.--

18 (1) A crematory shall maintain on its premises an
19 accurate record of all cremations performed, including:

20 (i) The name of referring funeral director, if any,
21 coroner or medical examiner.

22 (ii) The name of deceased.

23 (iii) The date of cremation.

24 (iv) The name of cremation chamber operator.

25 (v) The time and date that human remains were
26 inserted in the cremation chamber.

27 (vi) The time and date that human remains were
28 removed from cremation chamber.

29 (vii) The name and address of the individual who
30 accepted the cremated remains.

1 (viii) The name and address of authorizing agent.

2 (ix) The identification number assigned to the
3 deceased.

4 (x) A photocopy of the disposition permit filed in
5 connection with the disposition.

6 (2) The information under paragraph (1) shall be
7 maintained for 10 years after the cremation is performed and
8 shall be subject to inspection.

9 (3) The crematory licensee shall furnish a receipt to
10 the person who delivers human remains to the crematory
11 licensee, which shall be signed by both the crematory
12 licensee and the funeral director or his agent, if any, who
13 delivers the human remains, showing:

14 (i) The date and time of the delivery.

15 (ii) The type of casket or cremation container that
16 was delivered.

17 (iii) The name of the person from whom the human
18 remains were received and the name of the funeral
19 establishment, if any.

20 (iv) The name of the person who received the human
21 remains on behalf of the crematory licensee.

22 (v) The name of the decedent.

23 (4) The crematory licensee shall retain a copy of the
24 receipt under paragraph (3) for seven years.

25 (b) Release of remains.--Cremated remains shall only be
26 released or disposed of in accordance with Federal and State
27 laws and regulations, and with the express written consent of
28 the authorizing agent. Upon release of cremated remains, the
29 crematory licensee shall furnish a receipt with the name of the
30 decedent to the person who receives the cremated remains which

1 shall be signed by both the crematory licensee and the person
2 who receives the cremated remains. The crematory licensee shall
3 retain a copy of this receipt for 10 years.

4 (c) Retention.--The crematory licensee shall maintain a
5 record of all cremated remains disposed of by the crematory
6 licensee for seven years.

7 (d) Record for interment of cremated remains.--Upon
8 completion of the cremation, where appropriate, the crematory
9 licensee shall issue the record for interment of cremated
10 remains required by law to the authorizing agent or designee
11 that receives the cremated remains.

12 (e) Cemeteries.--A cemetery shall maintain a record of all
13 cremated remains that are interred or scattered on the property
14 of the cemetery.

15 Section 505. Sale of crematory.

16 If a change in crematory ownership should occur, all records
17 subject to section 504(a), (b) and (c) shall become the property
18 of the majority owner.

19 Section 506. Cremation containers.

20 Human remains must be delivered to a crematory in a casket or
21 cremation container marked with the decedent's name, date of
22 death and whether or not the remains have been embalmed. Human
23 remains and any personal property shall not be removed from the
24 casket or cremation container without the permission of the
25 authorizing agent and the casket or cremation container shall be
26 cremated with the human remains and personal property unless the
27 crematory licensee has been provided with written instructions
28 to the contrary by the authorizing agent or unless the crematory
29 licensee does not accept certain materials for cremation. The
30 crematory licensee must disclose unacceptable materials prior to

1 delivery of the human remains.

2 Section 507. Cremation procedures.

3 (a) Time frame.--Human remains shall not be cremated within
4 24 hours after the time of death, as indicated on the
5 certificate of death or the coroner's or medical examiner's
6 certificate. If the death comes under the authority of the
7 coroner or medical examiner, the human remains shall not be
8 received by the crematory licensee until authorization to
9 cremate has been received in writing or verifiable electronic
10 format from the coroner or medical examiner of the county in
11 which the death occurred and provided to the crematory licensee.
12 In no instance shall the lapse of time between the death and any
13 cremation be less than 24 hours unless the death was a result of
14 an infectious, contagious or communicable disease and such
15 requirement is waived in writing or verifiable electronic format
16 by the coroner or medical examiner where the death occurred and
17 is deemed necessary.

18 (b) Hazardous items.--

19 (1) No human remains shall be cremated with a pacemaker
20 or other potentially hazardous implant in place. The
21 authorizing agent for the cremation of the human remains
22 shall be responsible for informing the funeral director about
23 a pacemaker or other potentially hazardous implant. The
24 authorizing agent shall be responsible for any damage that
25 results from a failure to inform the crematory licensee or
26 funeral director about the pacemaker or implants if he fails
27 to inform the funeral director, when asked, about the
28 presence of the pacemaker or implants.

29 (2) If any authorizing agent informs the funeral
30 establishment in writing on the cremation authorization form

1 of the presence of a pacemaker or other potentially hazardous
2 implants in the human remains, the funeral establishment
3 shall be responsible for ensuring that all necessary steps
4 have been taken to remove the pacemaker or other potentially
5 hazardous implants before delivering the human remains to the
6 crematory. If the funeral establishment that has received
7 written notice of the presence of a pacemaker or implant
8 delivers the human remains to the crematory without removing
9 the pacemaker or implant from the human remains, and if the
10 human remains are cremated with the pacemaker or implant, the
11 funeral establishment that delivered the human remains to the
12 crematory shall also be liable for all resulting damages.

13 (c) Crematory licensee.--A crematory shall cremate only
14 human remains in cremation chambers, along with the casket or
15 cremation container and acceptable personal belongings of the
16 deceased.

17 (d) Holding remains.--A crematory licensee shall hold human
18 remains prior to cremation according to the following:

19 (1) Whenever a crematory licensee is unable to cremate
20 the human remains immediately upon taking custody of the
21 remains, the crematory licensee shall place the human remains
22 in a refrigeration facility at 40 degrees Fahrenheit or less
23 at a suitable location, unless the human remains have been
24 embalmed.

25 (2) A crematory licensee shall not be required to accept
26 for holding a cremation container from which there is
27 evidence of leakage of the body fluids from the human remains
28 therein.

29 (e) Authorized persons.--Only those persons authorized by
30 the crematory licensee shall be permitted in the crematory area

1 while any human remains are in the crematory area awaiting
2 cremation, being cremated or being removed from the cremation
3 chamber.

4 (f) Multiple cremations.--The simultaneous cremation of the
5 human remains of more than one person within the same cremation
6 chamber is not permitted unless the crematory licensee has
7 received specific written authorization to do so from all
8 authorizing agents of the human remains to be cremated. A
9 written authorization shall exempt the crematory licensee from
10 all liability for commingling of the cremated remains during the
11 cremation process.

12 (g) Verification.--Immediately prior to being placed within
13 the cremation chamber, the identification of the human remains,
14 as indicated on the cremation container, shall be verified by
15 the crematory licensee.

16 (h) Residue.--Upon completion of the cremation, and insofar
17 as possible, all of the recoverable residue of the cremation
18 process shall be removed from the cremation chamber. Insofar as
19 possible, all residue from the cremation process shall then be
20 separated from anything other than bone fragments. The remaining
21 bone fragments shall be processed and pulverized to reduce them
22 to unidentifiable granulated particles. Any other materials
23 shall be removed from the cremated residuals as far as possible
24 and shall be disposed of by the crematory licensee.

25 (i) Packing.--Cremated remains shall be packed as follows:

26 (1) The cremated remains with the proper identification
27 shall be placed in a temporary container or urn. The
28 temporary container or urn contents shall be packed in clean
29 packing materials and shall not be contaminated with any
30 other object unless specific authorization has been received

1 from the authorizing agent or as provided in this act.

2 (2) If the cremated remains do not fit within the
3 dimensions of a temporary container or urn, the remainder of
4 the cremated remains shall be returned to the authorizing
5 agent or a designated representative in a separate container.
6 Containers or urns shall be clearly marked on the outside of
7 the container or urn with the name of the deceased person
8 whose cremated remains are contained therein and an
9 indication that containers are being used to hold the
10 cremated remains.

11 (3) If the cremated remains are to be shipped, the
12 temporary container or designated receptacle ordered by the
13 authorizing agent shall be packed securely in a suitable,
14 sturdy and pressure-resistant container which is not fragile
15 and is sealed properly. Cremated remains shall be shipped
16 only by a method which has an internal tracing system
17 available and which provides a receipt signed by the person
18 accepting delivery.

19 Section 508. Removal of body parts.

20 No funeral director or funeral establishment shall remove
21 body parts, permit others to remove body parts or use funeral
22 establishment facilities to remove body parts from human remains
23 except as necessary to perform embalming or other services in
24 preparation for burial or cremation authorized in writing by the
25 authorizing agent. If a funeral director is notified by a person
26 authorized to make donations pursuant to 20 Pa.C.S. Ch. 86
27 Subch. B (relating to express anatomical gifts) that the person
28 wishes to donate body parts from human remains within the
29 funeral director's custody, the funeral director shall
30 immediately notify the federally designated organ procurement

1 organization serving that region. Notwithstanding any provision
2 to the contrary, the organ procurement organization or a
3 Pennsylvania nonprofit eye bank registered with the United
4 States Food and Drug Administration and accredited by the Eye
5 Bank Association of America shall be permitted to perform a
6 recovery of donated ocular tissue, including, without
7 limitation, the whole eye, cornea and sclera, and associated
8 blood specimens at the funeral establishment if the donation is
9 authorized under 20 Pa.C.S. Ch. 86 (relating to anatomical
10 gifts) and performed consistent with generally accepted
11 practices and standards. Appropriate documentation from the
12 organ procurement organization shall be provided.

13 Section 509. Sale or disposal of prosthetics and valuables.

14 The department shall develop a procedure for the sale or
15 disposal of prosthetics and valuables.

16 Section 510. Disposition of cremated remains.

17 (a) Responsibility.--The authorizing agent is responsible
18 for the disposition of the cremated remains. If, after a period
19 of 30 days from the date of cremation, the authorizing agent or
20 a designated representative has not specified the ultimate
21 disposition of or claimed the cremated remains, the crematory
22 licensee, the funeral establishment or other person in
23 possession of the cremated remains may dispose of the cremated
24 remains in any manner permitted by law, except scattering. A
25 record of the disposition shall be made and kept by the person
26 making the disposition. Upon disposing of cremated remains in
27 accordance with this act, the crematory licensee, funeral
28 establishment or person in possession of the cremated remains
29 shall be discharged from any legal obligation or liability
30 concerning such cremated remains.

1 (b) Delivery.--The licensed funeral director, as
2 appropriate, shall deliver the cremated remains to the
3 individual specified by the authorizing agent on the cremation
4 authorization form. The representative of the crematory licensee
5 and the individual receiving the cremated remains shall sign a
6 receipt indicating the name of the deceased, the date, time and
7 place of the receipt and other information as provided in this
8 chapter. If the cremated remains are shipped, a record of the
9 internal tracing history and the signed receipt shall suffice.
10 The funeral director and crematory licensee shall retain a copy
11 of the internal tracing history and the signed receipt.

12 Section 511. Veterans.

13 (a) Determination.--In order to determine if the cremated
14 remains belong to a veteran, the crematory licensee, the funeral
15 establishment or other person in possession of the cremated
16 remains may share the information with the United States
17 Department of Veterans Affairs, a State department of military
18 and veterans affairs, a county veterans' affairs office or a
19 national or county veterans' cemetery.

20 (b) Liability.--For the purposes of this section, the
21 crematory licensee, the funeral establishment or other person in
22 possession of the cremated remains shall not be liable for
23 releasing and sharing information in accordance with subsection
24 (a) in order to determine the decedent's veteran status.

25 (c) Reimbursement.--The authorizing agent shall be
26 responsible for reimbursing a funeral establishment or
27 organization under subsection (a) for all reasonable expenses
28 incurred in relation to the disposition of the cremated remains.

29 (d) Record.--The licensed funeral director or crematory
30 licensee must maintain a record identifying the organization

1 under subsection (a) that receives the cremated remains and the
2 site designation for final disposition of the cremated remains.
3 Section 512. Limitation of liability.

4 (a) General rule.--Any person signing a cremation
5 authorization form as an authorizing agent shall be deemed to
6 warrant the truthfulness of any facts set forth in the cremation
7 authorization form, including the identity of the deceased whose
8 remains are sought to be cremated and that person's authority to
9 order such cremation. Any person other than a coroner or medical
10 examiner signing a cremation authorization form as an
11 authorizing agent shall be personally and individually liable
12 for any resulting damage. A crematory licensee and a funeral
13 establishment may rely upon the representations of the
14 authorizing agent in the cremation authorization form.

15 (b) Refusal.--

16 (1) A crematory licensee that refuses to perform a
17 cremation shall not be liable for refusing to accept the
18 human remains or to perform a cremation until receiving a
19 court order or other suitable confirmation that a dispute has
20 been settled:

21 (i) if they are aware of any dispute concerning the
22 cremation of human remains;

23 (ii) if they have a reasonable basis for questioning
24 any of the representations made by the authorizing agent;
25 or

26 (iii) for any other lawful reason.

27 (2) If a funeral establishment or crematory licensee is
28 aware of any dispute concerning the release or disposition of
29 the cremated remains, the funeral establishment or crematory
30 licensee may refuse to release the cremated remains until the

1 dispute has been resolved or the funeral establishment or
2 crematory licensee has been provided with a court order or
3 other suitable confirmation authorizing the release or
4 disposition of the cremated remains. Funeral establishments
5 and crematory licensees shall not be liable for the refusal
6 to release or dispose of cremated remains in accordance with
7 this subsection.

8 CHAPTER 7

9 ADMINISTRATION AND ENFORCEMENT

10 Section 701. Administration.

11 The department may promulgate regulations consistent with
12 this act.

13 Section 702. Crematory policies.

14 A crematory licensee may enact policies consistent with this
15 act for the management and operation of a crematory, the types
16 of cremation containers it will accept, authorization forms
17 required, witnesses to a cremation and similar provisions.

18 Nothing in this section shall prevent a crematory licensee from
19 enacting policies which are more stringent than the provisions
20 contained in this act except that no crematory licensee shall
21 make or enforce any policies requiring that human remains be
22 placed in a casket before cremation or that human remains be
23 cremated in a casket, nor shall a crematory licensee refuse to
24 accept human remains for cremation for the reason that they are
25 not in a casket.

26 Section 703. Actions against unlicensed crematory.

27 (a) Action for injunction.--Whenever a license is required
28 by this act to maintain or operate a crematory, the department
29 may maintain an action in the name of the Commonwealth for an
30 injunction or other process restraining or prohibiting any

1 person from establishing, conducting or operating any unlicensed
2 crematory.

3 (b) Issuance of permanent injunction.--If a person is
4 refused a license or the renewal of a license to operate or
5 conduct a crematory, or the person's license to operate or
6 conduct a crematory is suspended or revoked, and the person
7 fails to appeal, or if the appeal is decided finally favorable
8 to the department, the court shall issue a permanent injunction
9 upon proof that the person is operating or conducting a
10 crematory without a license as required by this act.

11 Section 704. Actions against violations of law, rules and
12 regulations.

13 (a) Injunction.--Whenever any person, regardless of whether
14 the person is a licensee, has violated any of the provisions of
15 this act or the regulations issued under this act, the
16 department may maintain an action in the name of the
17 Commonwealth for an injunction or other process restraining or
18 prohibiting the person from engaging in such activity.

19 (b) Civil penalty.--Any person, regardless of whether the
20 person is a licensee, who has committed a violation of any of
21 the provisions of this act or of any rule or regulation issued
22 under this act, including failure to correct a serious licensure
23 violation, as defined by regulation, within the time specified
24 in a deficiency citation, may be assessed a civil penalty by an
25 order of the department of up to \$500 for a first violation and
26 up to \$1,000 for subsequent violations for each deficiency for
27 each day that each deficiency continues. Civil penalties shall
28 be collected from the date the crematory receives notice of the
29 violation until the department confirms correction of the
30 violation.

1 (c) Other use of funds.--When all other sources of funding
2 have been exhausted, the department shall apply funds collected
3 as a result of the assessment of a civil penalty to the
4 protection of the health or property of residents of this
5 Commonwealth. Funds may be utilized to:

6 (1) Provide payment to temporary management.

7 (2) Maintain the operation of the crematory pending
8 correction of deficiencies or closure.

9 Section 705. Closure for threat to health or safety.

10 Whenever the department determines that deficiencies pose an
11 immediate and serious threat to the health or safety of
12 residents of this Commonwealth near the crematory, the
13 department may direct the closure of the crematory and the
14 transfer of cremated remains to other licensed crematories.

15 Section 706. Preneed cremation arrangements.

16 (a) General rule.--Any preneed contract sold by or preneed
17 arrangements made with a funeral establishment that includes a
18 cremation shall specify the ultimate disposition of the cremated
19 remains, if known, and that portion of the agreement shall be
20 initialed by the individual making the arrangements. In the
21 event no additional or different instructions are provided to
22 the funeral establishment by the authorizing agent at the time
23 of death, the funeral establishment and the crematory licensee
24 shall be authorized to release or dispose of the cremated
25 remains as indicated in the preneed agreement. Upon compliance
26 with the terms of that preneed agreement, the funeral
27 establishment shall be released from any liability concerning
28 the disposition of the cremated remains.

29 (b) Specific provisions.--

30 (1) Any person on his own behalf, as the authorizing

1 agent, shall execute a cremation authorization form on a
2 preneed basis. The person or authorizing agent shall have the
3 right to transfer the arrangements for such cremation or
4 cancel this authorization at any time prior to death by
5 rescinding the executed cremation authorization form in
6 writing and providing written notice.

7 (2) At the time of the death of a person who has
8 executed, as the authorizing agent, a cremation authorization
9 form on a preneed basis, any person in possession of an
10 executed form and any person charged with making arrangements
11 for the final disposition of the decedent who has knowledge
12 of the existence of an executed form shall use his best
13 efforts to ensure that the decedent is cremated and that the
14 final disposition of the cremated remains is in accordance
15 with the instructions contained on the cremation
16 authorization form. If a crematory licensee is in possession
17 of a completed cremation authorization form that was executed
18 on a preneed basis, or is in possession of the designated
19 human remains, the crematory licensee shall be required to
20 cremate the human remains and dispose of the cremated remains
21 according to the instructions contained on the cremation
22 authorization form and may do so without any liability.

23 CHAPTER 9

24 CREMATORY REGULATION FUND

25 Section 901. Fund established.

26 The Crematory Regulation Fund is established as a restricted
27 account within the General Fund.

28 Section 902. Disposition of money.

29 All fees, fines and civil penalties collected in accordance
30 with this act shall be paid into the Crematory Regulation Fund

1 and are hereby appropriated to the Department of Health for use
2 in the performance of its duties under this act.

3 CHAPTER 21

4 MISCELLANEOUS PROVISIONS

5 Section 2101. Effective date.

6 This act shall take effect as follows:

7 (1) Section 703 shall take effect in 18 months.

8 (2) The remainder of this act shall take effect in 60
9 days.