

THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 1208 Session of 2011

INTRODUCED BY YOUNGBLOOD, CALTAGIRONE AND CRUZ, MARCH 28, 2011

REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE, MARCH 28, 2011

AN ACT

1 Amending the act of January 14, 1952 (1951 P.L.1898, No.522),  
2 entitled, as amended, "An act to provide for the better  
3 protection of life and health of the citizens of this  
4 Commonwealth by requiring and regulating the examination,  
5 licensure and registration of persons and registration of  
6 corporations engaging in the care, preparation and  
7 disposition of the bodies of deceased persons, and providing  
8 penalties; providing for a State Board of Funeral Directors  
9 in the Department of State, and repealing other laws,"  
10 regulating cremation.

11 The General Assembly of the Commonwealth of Pennsylvania  
12 hereby enacts as follows:

13 Section 1. Section 2 of the act of January 14, 1952 (1951  
14 P.L.1898, No.522), known as the Funeral Director Law, is amended  
15 by adding clauses to read:

16 Section 2. Definitions.--The following terms as used in this  
17 act shall, unless the context indicates otherwise, have the  
18 following meanings:

19 \* \* \*

20 (12) The term "cremated remains" shall mean the bone  
21 fragments remaining after cremation and shall include the  
22 residue of foreign materials cremated with the body of the

1 deceased individual.

2 (13) The term "cremation" shall mean the reduction of the  
3 body of a deceased individual to ashes by the application of  
4 heat.

5 (14) The term "crematory" shall mean a structure containing  
6 a furnace used or intended to be used for cremation.

7 Section 2. Section 8 of the act is amended by adding a  
8 subsection to read:

9 Section 8. Conduct of Business.--\* \* \*

10 (f) Cremation License. The board shall issue or renew a  
11 cremation license to a person to operate a crematory if, after  
12 inspection, the board determines that the crematory meets the  
13 standards set forth in the regulations of the board. A license  
14 under this subsection is subject to renewal every two (2) years.

15 Section 3. Section 13 of the act, amended July 25, 1953  
16 (P.L.592, No.163) and July 31, 1968 (P.L.1008, No.295), is  
17 amended to read:

18 Section 13. Practice Without License; Exceptions.--(a) No  
19 person shall practice as a funeral director, as defined herein,  
20 in this Commonwealth unless he holds a valid license so to do as  
21 provided in this act.

22 The provisions of this subsection shall not apply to the  
23 following persons when acting under the direction and  
24 supervision of a licensed funeral director:

25 (1) Employees of any cemetery or crematory whose duties or  
26 business extend no further.

27 (2) Persons acting under the orders of commissioned medical  
28 officers of any branch of the armed forces of the United States.

29 (3) Persons disposing of the bodies of deceased persons  
30 lawfully placed at the disposition of legally organized medical,

1 surgical or other institutions for the benefit of science.

2 (4) Persons disposing of the bodies of deceased persons  
3 under the authority and direction of the Department of Health of  
4 this Commonwealth in times of actual epidemic or public  
5 calamity.

6 (b) No person other than a licensed funeral director or a  
7 resident interne shall prepare or embalm the body of any  
8 deceased person.

9 (c) No person other than a licensed funeral director shall,  
10 directly or indirectly, or through an agent, offer to or enter  
11 into a contract with a living person to render funeral services  
12 to such person when needed. If any such licensed funeral  
13 director shall accept any money for such contracts, he shall,  
14 forthwith, either deposit the same in an escrow account in, or  
15 transfer the same in trust to, a banking institution in this  
16 Commonwealth, conditioned upon its withdrawal or disbursement  
17 only for the purposes for which such money was accepted. This  
18 subsection does not apply to a contract by a bona fide  
19 institution that it will provide professional funeral services  
20 for persons who may die while inmates of the institution, if  
21 such contract is made as a part of its contract for housing,  
22 maintaining and caring for its inmates.

23 (d) Tentative funeral arrangements after a death has  
24 occurred can be made by an unlicensed member of the funeral home  
25 staff in the event the licensed funeral director is temporarily  
26 absent.

27 (e) A person may not operate a crematory or engage in  
28 cremation unless the person has a license under section 8(f).

29 Section 4. Sections 16 and 17 of the act, amended or added  
30 December 22, 1983 (P.L.354, No.88) are amended to read:

1       Section 16. Duties of Board.--(a) The board shall be  
2 charged with the enforcement of this act. It shall be empowered  
3 to formulate necessary rules and regulations not inconsistent  
4 with this act for the proper conduct of the business or  
5 profession of funeral directing and as may be deemed necessary  
6 or proper to safeguard the interests of the public and the  
7 standards of the profession.

8       (b) The board shall appoint an inspector or inspectors whose  
9 title shall be "Inspector, State Board of Funeral Directors,  
10 Commonwealth of Pennsylvania." Such inspectors shall be licensed  
11 funeral directors who have been actively engaged in the practice  
12 of such profession for at least ten years. Inspectors shall hold  
13 office at the pleasure of the board, and shall receive such  
14 compensation as shall be fixed by the board with the approval of  
15 the department. Inspectors shall be empowered to serve all  
16 processes and papers of the board, and shall have the right of  
17 entry into any place, where the business or profession of  
18 funeral directing is carried on or advertised as being carried  
19 on, for the purpose of inspection and for the investigation of  
20 complaints coming before the board and for such other matters as  
21 the board may direct.

22       (c) The board shall keep a record of its proceedings and  
23 shall maintain a register of the names and addresses of all  
24 persons applying for and those receiving licenses and  
25 registration cards under this or any prior act. Such register  
26 shall be open to public inspection.

27       (d) The board shall submit annually to the department and to  
28 the House and Senate Appropriations Committees, fifteen days  
29 after the Governor has submitted his budget to the General  
30 Assembly, a copy of the budget request for the upcoming fiscal

1 year which the board previously submitted to the department.

2 (e) The board shall promulgate regulations on cremation,  
3 which include establishing all of the following:

4 (1) Standards for cremation, crematories and disposition of  
5 cremated remains.

6 (2) Requirements for cremation recordkeeping.

7 (3) License, issuance and renewal fees.

8 Section 17. Penalties.--(a) Any person violating any of the  
9 provisions of this act or any rule or regulation of the board  
10 promulgated pursuant thereto shall be guilty of a misdemeanor,  
11 and, upon conviction thereof, shall be sentenced to pay a fine  
12 of not less than one hundred dollars (\$100) nor more than one  
13 thousand dollars (\$1000), or undergo imprisonment not exceeding  
14 one (1) year, or both.

15 (b) In addition to any other civil remedy or criminal  
16 penalty provided for in this act, the board, by a vote of the  
17 majority of the maximum number of the authorized membership of  
18 the board as provided by law, or by a vote of the majority of  
19 the duly qualified and confirmed membership or a minimum of four  
20 members, whichever is greater, may levy a civil penalty of up to  
21 one thousand dollars (\$1,000) on any current licensee who  
22 violates any provision of this act or on any person who  
23 practices as a funeral director, operates a crematory or engages  
24 in cremation without being properly licensed to do so under this  
25 act. The board shall levy this penalty only after affording the  
26 accused party the opportunity for a hearing, as provided in  
27 Title 2 of the Pennsylvania Consolidated Statutes (relating to  
28 administrative law and procedure).

29 Section 5. This act shall take effect as follows:

30 (1) The following provisions shall take effect on the

1 effective date of regulations promulgated under section 16(e)  
2 of the act:

3 (i) The addition of section 8(f) of the act.

4 (ii) The addition of section 13(e) of the act.

5 (iii) The amendment of section 17(b) of the act.

6 (2) This section shall take effect immediately.

7 (3) The remainder of this act shall take effect in 60  
8 days.