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THE GENERAL ASSEMBLY OF PENNSYLVANIA

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**HOUSE BILL**

**No. 1990** Session of  
2007

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INTRODUCED BY READSHAW, BRENNAN, BUXTON, CLYMER, COHEN, COSTA,  
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J. WHITE, WOJNAROSKI, YOUNGBLOOD AND CONKLIN,  
OCTOBER 30, 2007

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REFERRED TO COMMITTEE ON PROFESSIONAL LICENSURE,  
OCTOBER 30, 2007

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AN ACT

1 Regulating crematories; providing for licenses, for licensure  
2 requirements, for inspections and enforcement; and  
3 prescribing penalties.

4 The General Assembly of the Commonwealth of Pennsylvania  
5 hereby enacts as follows:

6 Section 1. Short title.

7 This act shall be known and may be cited as the Cremation  
8 Licensing Act.

9 Section 2. Definitions.

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

13 "Authorizing agent." A person legally entitled to order the  
14 cremation of human remains or legally authorized to control the  
15 final disposition of human remains.

16 "Board." The State Board of Funeral Directors.

1 "Cemetery company." A person who holds a current, valid  
2 registration certificate as a cemetery company under the act of  
3 February 19, 1980 (P.L.15, No.9), known as the Real Estate  
4 Licensing and Registration Act.

5 "Commission." The State Real Estate Commission.

6 "Cremated remains." All the remains of a cremated human body  
7 recovered after the completion of the cremation process,  
8 including bone fragment reduced by pulverization and including  
9 the residue, if any, of foreign matter cremated with the human  
10 remains.

11 "Cremation." The process of reducing human remains to bone  
12 fragments through intense heat and evaporation, which may  
13 include any mechanical or thermal process.

14 "Cremation chamber." The enclosed space within which the  
15 cremation process takes place.

16 "Cremation container." The container in which human remains  
17 are transported to a crematory and placed in a cremation chamber  
18 for cremation.

19 "Cremation license." The license required by section 3.

20 "Crematory." The building or portion of a building that  
21 houses the necessary appliances and facilities for the cremation  
22 of human remains.

23 "Department." The Department of State, acting through the  
24 Commissioner of the Bureau of Professional and Occupational  
25 Affairs.

26 "Funeral director." A person holding a current, valid  
27 license as a funeral director under the act of January 14, 1952  
28 (1951 P.L.1898, No.522), known as the Funeral Director Law.

29 "Holding facility." An area within or adjacent to a  
30 crematory facility that is designated for the retention of human

1 remains prior to cremation.

2 "Human remains." The body of a deceased human being, or any  
3 part thereof, in any stage of decomposition.

4 "Licensee." The holder of a cremation license.

5 "Person." A corporation, partnership, limited liability  
6 company, business trust, other association, estate, trust  
7 foundation or natural person.

8 "Processed remains." The end result after pulverization,  
9 where any residual from the cremation process is cleaned leaving  
10 only bone fragments.

11 "Sealable container." A receptacle where processed remains  
12 shall be placed so as to prevent leakage of remains or entrance  
13 of foreign objects.

14 Section 3. License required.

15 (a) Funeral directors.--A funeral director may not operate a  
16 crematory unless the funeral director has a cremation license  
17 from the board to operate a crematory. The cremation license  
18 required by this subsection shall be in addition to the  
19 requirement under the act of January 14, 1952 (1951 P.L.1898,  
20 No.522), known as the Funeral Director Law, for a current, valid  
21 license as a funeral director. A separate cremation license  
22 shall be required for each crematory operated by a funeral  
23 director.

24 (b) Cemetery companies.--A cemetery company shall not  
25 operate a crematory unless the cemetery company has a cremation  
26 license from the commission to operate a crematory. The  
27 cremation license required by this subsection shall be in  
28 addition to the requirement under the act of February 19, 1980  
29 (P.L.15, No.9), known as the Real Estate Licensing and  
30 Registration Act, for a current, valid registration certificate

1 as a cemetery company. A separate cremation license shall be  
2 required for each crematory operated by a cemetery company.

3 (c) Other persons.--

4 (1) A person that is not a funeral director or a  
5 cemetery company may not operate a crematory unless that  
6 person has a cremation license from the board to operate a  
7 crematory. It shall not be a requirement of this act that a  
8 person be a funeral director or a cemetery company in order  
9 to operate a crematory. A separate cremation license shall be  
10 required for each crematory operated by a person that is not  
11 a funeral director or a cemetery company.

12 (2) A person acting under the direction and supervision  
13 of a licensee shall not be required to obtain a cremation  
14 license, provided, however, that any action by such person  
15 that would be a violation of this act if committed by the  
16 licensee shall be deemed a violation of this act by the  
17 licensee.

18 Section 4. Requirements for licensure.

19 (a) General rule.--The board and commission are hereby  
20 authorized and directed to issue the cremation license required  
21 by section 3 to applicants who meet the requirements of this  
22 section.

23 (b) Renewal.--The cremation license shall be subject to  
24 renewal every two years by the board or commission that  
25 initially issued the license.

26 (c) Application.--The board and commission shall each  
27 establish an application for a cremation license and an  
28 application for renewal of a cremation license.

29 (d) Basis for license issuance and renewal.--The initial  
30 cremation license shall not be issued unless, after inspection,

1 the board or the commission determines that the applicant is in  
2 compliance with:

3 (1) This act and any regulations promulgated under this  
4 act.

5 (2) The applicable health and environmental statutes and  
6 regulations of this Commonwealth.

7 (3) Sections 1, 2 and 3 of the act of June 8, 1891  
8 (P.L.212, No.184), entitled "An act in relation to cremation  
9 of human bodies in this Commonwealth."

10 (e) Fees.--The board and the commission each shall by  
11 regulation establish fees for the cremation license and for the  
12 renewal of cremation license.

13 Section 5. Authorization to cremate.

14 (a) General rule.--A licensee may not cremate human remains  
15 until the licensee has received:

16 (1) Written authorization to do so from the authorizing  
17 agent.

18 (2) The permit required by the act of June 8, 1891  
19 (P.L.212, No.184), entitled "An act in relation to cremation  
20 of human bodies in this Commonwealth."

21 (3) Any other documentation required by the Commonwealth  
22 or any political subdivision thereof.

23 (b) Joint cremations.--A licensee may not cremate the human  
24 remains of more than one deceased human body at a time without  
25 the written consent of each authorizing agent.

26 Section 6. Identification of remains.

27 (a) General rule.--Immediately upon taking custody of human  
28 remains, a licensee shall verify that the human remains bear a  
29 means of identification attached to the cremation container or  
30 to the remains.

1 (b) Unidentified human remains.--

2 (1) A licensee may not accept unidentified human  
3 remains.

4 (2) If the licensee takes custody of a cremation  
5 container subsequent to placement of the human remains into  
6 that container, the licensee may rely on the permit and any  
7 other documentation required by section 5(a)(2) and (3) and  
8 on the representations of the authorizing agent for the  
9 identification of those human remains.

10 (c) Numbered identification tag required.--The licensee  
11 shall assure that a numbered identification tag accompanies the  
12 cremation container and the cremated remains throughout the  
13 cremation process.

14 Section 7. Recordkeeping.

15 For each individual human remains cremated, a licensee shall  
16 maintain a permanent file which shall contain all of the  
17 following:

18 (1) The name and address of the deceased human being who  
19 was cremated.

20 (2) The number of the identification tag required by  
21 section 6(c).

22 (3) The name and address of the individual who delivered  
23 the human remains to the crematory.

24 (4) The date and time of delivery of the human remains  
25 to the crematory.

26 (5) The date and time of the actual cremation process of  
27 the human remains.

28 (6) The name of the individual actually performing the  
29 cremation.

30 (7) The originals or copies of all authorizations,

1 permits or other documentation required by section 5.

2 (8) The originals or copies of all instructions or  
3 records as to the final disposition of the cremated remains  
4 required by section 10.

5 Section 8. Holding human remains for cremation.

6 (a) General rule.--Human remains that have been designated  
7 for cremation shall be cremated by a licensee or his agent  
8 within the time period established by the board and commission  
9 by regulation. The board and commission shall by regulation  
10 establish procedures to be followed should a licensee be unable  
11 to cremate human remains within the prescribed time period. Such  
12 regulations shall include the requirement that the licensee  
13 provide a holding facility for the retention of human remains  
14 until such time as cremation can occur.

15 (b) Requirements.--

16 (1) A licensee may not hold human remains for cremation  
17 unless the human remains are contained within an individual,  
18 rigid, closed cremation container.

19 (2) A licensee may not accept a cremation container from  
20 which there is any evidence of leakage of the body fluids  
21 from the human remains therein.

22 Section 9. Processing and packaging of cremated remains.

23 (a) General rule.--Subsequent to the cremation of human  
24 remains, a licensee or his agent shall assure that all residual  
25 material from the cremation is removed from the cremation  
26 chamber and placed in a tray together with the identification  
27 tag. A licensee may dispose of prosthetics, bridgework or other  
28 residual material unless otherwise instructed by the authorizing  
29 agent. The tray of remains may undergo final processing which  
30 includes pulverization and removal of any foreign material.

1 (b) Requirements.--

2 (1) Processed remains together with the identification  
3 tag shall be placed in a sealable container or designated  
4 vessel as directed by the authorizing agent.

5 (2) Prior to any final sealing, a licensee or his agent  
6 shall examine the remains to ensure that it is human remains  
7 that are placed therein and that the identification number  
8 matches the name of the deceased human being who has been  
9 cremated.

10 Section 10. Disposition of cremated remains.

11 (a) Written instructions.--A licensee shall obtain written,  
12 signed instructions from the authorizing agent as to the  
13 disposition of the cremated remains.

14 (b) Hold-over cremated remains.--If cremated remains have  
15 been in the possession of a licensee without instructions for  
16 final disposition from the authorizing agent for a period of six  
17 months or more from the date of cremation, the licensee may  
18 attempt to contact the authorizing agent by certified mail,  
19 return receipt requested, requesting disposition instructions  
20 and informing the authorizing agent of the procedures that may  
21 be followed if disposition instructions are not received.

22 (c) Permanent disposition.--If contact cannot be made or  
23 disposition instructions are not given within 60 days of the  
24 date on which the certified mailing is made under subsection  
25 (b), the licensee may arrange for permanent disposition of the  
26 remains in any manner permitted by law. The licensee shall keep  
27 a record of any disposition made by the licensee under the  
28 authority of this subsection.

29 Section 11. Inspections.

30 (a) Uniform standards.--The board and commission shall



1 promulgate regulations setting forth uniform standards for the  
2 inspections required by section 4(d) for initial licensure.  
3 Thereafter, the inspections shall be conducted biennially.

4 (b) Persons who may conduct inspections.--Inspections shall  
5 be conducted by authorized representatives of the department,  
6 who shall report the results of such inspections to either the  
7 board or commission, depending on the status of the operator of  
8 the crematory under section 3.

9 (c) Existing operators.--The operators of crematories that  
10 operate on the effective date of this act shall register with  
11 either the board or the commission, depending on the status of  
12 the operator under section 3, within 60 days of the effective  
13 date of this act.

14 Section 12. Enforcement.

15 (a) Powers of board.--The board shall enforce this act with  
16 regard to persons holding a cremation license or required to  
17 hold a cremation license from the board. In carrying out its  
18 duties under this section, the board shall exercise the same  
19 powers of investigation and enforcement with regard to persons  
20 holding or required to hold a current, valid cremation license  
21 from the board as the board is authorized to exercise under the  
22 act of January 14, 1952 (1951 P.L.1898, No.522), known as the  
23 Funeral Director Law, within 60 days of the effective date of  
24 this act.

25 (b) Powers of commission.--The commission shall enforce this  
26 act with regard to persons holding a cremation license or  
27 required to hold a cremation license from the commission. In  
28 carrying out its duties under this section, the commission shall  
29 exercise the same powers of investigation and enforcement with  
30 regard to persons holding, or required to hold, a current, valid

1 cremation license from the commission as the commission is  
2 authorized to exercise under the act of February 19, 1980  
3 (P.L.15, No.9), known as the Real Estate Licensing and  
4 Registration Act, with regard to persons licensed or required to  
5 be licensed under that act.

6 (c) Penalty.--

7 (1) A violation of this act by a person who holds or is  
8 required to hold a current, valid cremation license from the  
9 board shall be deemed a violation of the Funeral Director Law  
10 and shall be grounds for disciplinary action under sections  
11 11, 12 and 17 of that act.

12 (2) A violation of this act by a person who holds or is  
13 required to hold a current, valid cremation license from the  
14 commission shall be deemed a violation of the Real Estate  
15 Licensing and Registration Act and shall be grounds for  
16 disciplinary action under sections 303 and 604 of that act.

17 Section 13. Regulations.

18 The board and commission each shall promulgate uniform  
19 regulations as are necessary to carry out the provisions of this  
20 act within 18 months of the effective date of this act.

21 Section 14. Effective date.

22 This act shall take effect as follows:

23 (1) Section 3 shall take effect one year after the  
24 regulations required by this act have been promulgated by the  
25 State Board of Funeral Directors and the State Real Estate  
26 Commission.

27 (2) The remainder of this act shall take effect  
28 immediately.