

THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 1155 Session of
2007

INTRODUCED BY TOMLINSON, TARTAGLIONE, FUMO, GREENLEAF, RAFFERTY,
ORIE, BAKER, RHOADES, LAVALLE, MUSTO AND LOGAN,
NOVEMBER 13, 2007

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
NOVEMBER 13, 2007

AN ACT

1 Implementing the provisions of the Model Cremation Law in
2 Pennsylvania.

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

5 Section 1. Short title.

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

8 Section 2. Definitions.

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

12 "Authorizing agent." A person legally entitled to authorize
13 the cremation of human remains.

14 "Body part." A limb or other portion of the anatomy removed
15 from a person or human remains for medical purposes during
16 treatment, surgery, biopsy, autopsy or medical research; or a
17 human body or any portion of a body that has been donated to

1 science for medical research purposes.

2 "Burial transit permit." A permit for disposition of a dead
3 human body as required by law.

4 "Casket." A rigid container designed for the encasement of
5 human remains, usually constructed of wood, metal or like
6 material and ornamented and lined with fabric, which may or may
7 not be combustible.

8 "Change of ownership." A transfer of more than 50% of the
9 stock or assets of a crematory authority.

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

13 "Cremated remains." All the remains of the cremated human
14 body recovered after the completion of the cremation process,
15 including pulverization which leaves only bone fragments reduced
16 to unidentifiable dimensions and may possibly include the
17 residue of any foreign matter including casket material,
18 bridgework or eye glasses that were cremated with the human
19 remains.

20 "Cremation." The technical process, using direct flame and
21 heat, that reduces human remains to bone fragments. The
22 reduction takes place through heat and evaporation. The term
23 includes the processing and pulverization of the bone fragments.

24 "Cremation chamber." The enclosed space within which the
25 cremation process takes place. Cremation chambers shall be used
26 exclusively for the cremation of human remains.

27 "Cremation container." The container in which the human
28 remains are placed in the cremation chamber for a cremation and
29 which container is:

30 (1) Composed of readily combustible materials suitable

1 for cremation.

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

4 "Cremation interment container" or "urn vault." A rigid
5 outer container that, subject to a cemetery's rules and
6 regulations, is composed of concrete, steel, fiberglass or some
7 similar material in which an urn is placed prior to being
8 interred in the ground, and which is designed to withstand
9 prolonged exposure to the elements and to support the earth
10 above the urn.

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

13 "Crematory authority." The legal entity or the authorized
14 representative of the legal entity which is licensed to operate
15 a crematory.

16 "Delivery." The act of transferring, giving or yielding
17 possession to another.

18 "Department." The Department of State of the Commonwealth.

19 "Final disposition." The burial or other disposition on a
20 permanent basis of a dead human body, cremated remains or parts
21 of a dead human body.

22 "Funeral director." As defined in the act of January 14,
23 1952 (1951 P.L.1898, No.522), known as the Funeral Director Law.

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

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

1 prior to cremation that shall comply with any applicable public
2 health law.

3 "Human remains." The body of a deceased person, or part of a
4 body or limb that has been removed from a living person,
5 including the body, part of a body or limb in any stage of
6 decomposition.

7 "Niche." A compartment or cubicle for the memorialization or
8 permanent placement of an urn containing cremated remains.

9 "Processing." The reduction of identifiable bone fragments
10 after the completion of the cremation process to unidentifiable
11 bone fragments by manual means.

12 "Pulverization." The reduction of identifiable bone
13 fragments after the completion of the cremation and processing
14 to granulated particles by manual or mechanical means.

15 "Scattering area." A designated area for the scattering of
16 cremated remains, usually in a cemetery and located on dedicated
17 cemetery property where cremated remains which have been removed
18 from their container can be mixed with or placed on top of the
19 soil or ground cover or buried in an underground receptacle on a
20 commingled basis.

21 "Temporary container." A receptacle for cremated remains
22 until an urn or other permanent container is acquired.

23 "Urn." A receptacle designed to encase the cremated remains.

24 Section 3. Establishment of crematory; licensure of crematory
25 authority.

26 (a) Crematory.--Any person doing business in this
27 Commonwealth or any cemetery, funeral establishment,
28 corporation, partnership, joint venture, voluntary organization
29 or any other entity, if licensed under this act, may erect,
30 maintain and conduct a crematory in this Commonwealth and

1 provide the necessary appliances and facilities for the
2 cremation of human remains in accordance with the provisions of
3 this act.

4 (b) Crematory authority.--A crematory authority shall be
5 subject to all Federal, State and local health and environmental
6 protection requirements and shall obtain all necessary licenses
7 and permits from the department, the Department of Health, the
8 United States Department of Health and Human Services and the
9 Federal and State environmental protection agencies or such
10 other appropriate Federal, State or local agencies.

11 (c) Existing facilities.--Applications for crematory
12 authorities which exist on the effective date of this act shall
13 be on forms furnished and prescribed by the department and shall
14 provide the department with the following information:

15 (1) The full name and address, both residence and
16 business, of the applicant if the applicant is an individual;
17 the full name and address of each partner and the partnership
18 if the applicant is a partnership; the full name and address
19 of every member of the board of directors and the association
20 if the applicant is an association; and the name and address
21 of every officer, director and shareholder holding more than
22 25% of the corporate stock of the corporation and the name of
23 the corporation if the applicant is a corporation.

24 (2) Proof of liability insurance for no less than
25 \$1,000,000.

26 (3) A detailed statement for each of the individuals
27 listed in the application under paragraph (1) providing their
28 business experience for the last ten years immediately
29 preceding the application, any felony or misdemeanor
30 convictions or arrests or involvement in civil litigation in

1 which fraud was an element of the crime or complaint and any
2 information about disciplinary actions or the loss or
3 suspension of any license by the Commonwealth or any other
4 state related to the business of funeral directing or
5 operation of a cemetery or crematory.

6 (4) The address and location of the crematory.

7 (5) Evidence confirming the date the crematory authority
8 was established.

9 (6) Copies of all licenses or permits required for a
10 crematory to operate in this Commonwealth.

11 (7) Any further information that the department may
12 reasonably request.

13 (d) New facilities.--Application for new crematory
14 authorities shall be on forms furnished and prescribed by the
15 department and shall provide the department with the following
16 information:

17 (1) The full name and address, both residence and
18 business, of the applicant if the applicant is an individual;
19 the full name and address of each partner and the partnership
20 if the applicant is a partnership; the full name and address
21 of every member of the board of directors and the association
22 if the applicant is an association; and the name and address
23 of every officer, director and shareholder holding more than
24 25% of the corporate stock of the corporation and the name of
25 the corporation if the applicant is a corporation.

26 (2) Proof of liability insurance for no less than
27 \$1,000,000.

28 (3) A detailed statement for each of the individuals
29 listed in the application under paragraph (1) providing their
30 business experience for the last ten years immediately

1 preceding the application, any felony or misdemeanor
2 convictions or arrests or involvement in civil litigation in
3 which fraud was an element of the crime or complaint and any
4 information about disciplinary actions or the loss or
5 suspension of any license by the Commonwealth or any other
6 state related to the business of funeral directing or
7 operation of a cemetery or crematory.

8 (4) The address and location of the crematory.

9 (5) A description of the type of structure and equipment
10 to be used in the operation of the crematory.

11 (6) Copies of all applications for any licenses or
12 permits issued for a crematory to operate in this
13 Commonwealth.

14 (7) Any further information that the department may
15 reasonably request.

16 (e) Annual report.--Each crematory authority shall file an
17 annual report with the department, accompanied by a fee in an
18 amount to be determined by the department in its regulations,
19 providing any changes required in the information provided under
20 subsection (c) or (d) or indicating that no changes have
21 occurred. The annual report shall be filed by a crematory
22 authority on or before March 15 of each calendar year with the
23 department. If the fiscal year of a crematory authority is other
24 than on a calendar-year basis, then the crematory authority
25 shall file the report required by this section within 75 days
26 after the end of its fiscal year. The department shall, for good
27 cause shown, grant an extension for the filing of the annual
28 report upon written request of the crematory authority. An
29 extension shall not exceed 60 days. The department may grant
30 additional 60-day extensions for good cause. If a crematory

1 authority fails to submit an annual report to the department
2 within the time specified in this section, the department shall
3 impose upon the crematory authority a penalty of \$1,000 for each
4 day the crematory authority remains delinquent in submitting the
5 annual report.

6 (f) Inspection of records and facilities.--All records
7 relating to the registration and annual report of the crematory
8 authority required to be filed under this section shall be
9 subject to inspection by the department upon reasonable notice.
10 The department shall have the authority to inspect the
11 facilities at any time.

12 (g) Prohibition.--No person, cemetery, funeral
13 establishment, corporation, partnership, joint venture,
14 voluntary organization or any other entity shall cremate any
15 human remains, except in a crematory licensed for this express
16 purpose and under the limitations provided in this act.

17 (h) Crematory personnel.--

18 (1) Each crematory for which a license is required shall
19 be operated under the supervision of a manager qualified in
20 accordance with rules adopted by the department. Each manager
21 shall be required to successfully pass a written examination
22 evidencing an understanding of the applicable provisions of
23 law. No person shall engage in the business of, act in the
24 capacity of, or advertise or assume to act as, a crematory
25 manager without first obtaining a license.

26 (2) The crematory licensee or authorized representative
27 shall provide training to all crematory personnel involved in
28 the cremation process. This training shall lead to a
29 demonstrated knowledge on the part of an employee regarding
30 identification procedures used during cremation, operation of

1 the cremation chamber and processing equipment and all laws
2 relevant to the handling of a body and cremated remains. This
3 training shall be outlined in a written plan maintained by
4 the crematory licensee for inspection and comment by an
5 inspector of the department. No employee shall be allowed to
6 operate any cremation equipment until the employee has
7 demonstrated an understanding of procedures required to
8 ensure that health and safety conditions are maintained at
9 the crematory and that cremated remains are not commingled
10 other than for acceptable residue. The crematory licensee
11 shall maintain a record to document that an employee has
12 received training. Any crematory that fails to produce a
13 written employee instruction plan, or record of employee
14 training for inspection upon request shall have 15 working
15 days from the time of the request to produce a plan or
16 training record for review. The license of the crematory
17 shall be suspended if no plan or training record is produced
18 for review after 15 working days have elapsed.

19 Section 4. Authorizing agent.

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

23 Section 5. Authorization to cremate.

24 (a) General rule.--Except as otherwise provided in this
25 section, a crematory authority shall not cremate human remains
26 until it has received from the funeral director the following
27 information:

28 (1) A cremation authorization form signed by an
29 authorizing agent. The cremation authorization form shall
30 have the name of the cremation authority, its address and the

1 name of its manager prominently displayed on the top of the
2 form. The cremation authorization form shall contain, at a
3 minimum, the following information:

4 (i) The identity of the human remains and the time
5 and date of death and verification that the remains have
6 been identified by the authorizing agent or his
7 designated representative.

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

10 (iii) Notification as to whether the death occurred
11 from a disease declared by the Department of Health to be
12 infectious, contagious or communicable.

13 (iv) The name of the authorizing agent and the
14 relationship between the authorizing agent and the
15 decedent.

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 authority to
28 cremate the human remains.

29 (vii) A representation 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 person performing the cremation.

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

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. That funeral director shall
10 execute the cremation authorization form as a witness and
11 shall not be responsible for any of the representations
12 made by the authorizing agent except the funeral director
13 or funeral establishment shall warrant to the crematory
14 authority that the human remains delivered to the
15 crematory authority have been positively identified as
16 the decedent listed on the cremation authorization form
17 by the authorizing agent or a designated representative
18 of the authorizing agent. Such identification shall be
19 made in person or by photograph by the authorizing agent
20 or designated representative of the authorizing agent.

21 (2) A completed and executed disposition permit, as
22 provided by State law, indicating that human remains are to
23 be cremated.

24 (3) Any other documentation required by the law,
25 regulation or ordinance.

26 (b) Delegation.--If an authorizing agent is not available to
27 execute the cremation authorization form, that person may
28 delegate that authority to another person in writing, including
29 a facsimile transmission, telegram or other electronic
30 transmission. A written delegation of authority of an

1 authorizing agent shall include:

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

4 (2) The name and address of the person to whom authority
5 is delegated and that:

6 (i) The person authorized under this section may
7 serve as the authorizing agent and execute the cremation
8 authorization form.

9 (ii) The funeral establishment and the crematory
10 authority are not liable for relying on a cremation
11 authorization form executed in compliance with this
12 section.

13 (c) Unidentified remains.--A crematory authority shall not
14 accept unidentified human remains. When the crematory authority
15 takes custody of a cremation container subsequent to the human
16 remains being placed within it, the crematory authority can rely
17 on the identification made before the body was placed in the
18 cremation container. The crematory authority shall place
19 appropriate identification upon the exterior of the cremation
20 container based on the prior identification.

21 Section 6. Cremation records; required information.

22 (a) General rule.--A crematory shall maintain on its
23 premises, or other business location within this Commonwealth,
24 an accurate record of all cremations performed, including the
25 name of referring funeral director, if any; the name of
26 deceased; the date of cremation; the name of cremation chamber
27 operator; the time and date that body was inserted in the
28 cremation chamber; the time and date that body was removed from
29 cremation chamber; the time and date that final processing of
30 cremated remains was completed; the disposition of cremated

1 remains; the name and address of authorizing agent; the
2 identification number assigned to the deceased; and a photocopy
3 of the disposition permit filed in connection with the
4 disposition. This information shall be maintained for at least
5 ten years after the cremation is performed and shall be subject
6 to inspection. The crematory authority shall furnish to the
7 person who delivers human remains to the crematory authority a
8 receipt signed by both the crematory authority and the funeral
9 director or his agent who delivers the human remains, showing
10 the date and time of the delivery, the type of casket or
11 alternative container that was delivered, the name of the person
12 from whom the human remains were received and the name of the
13 funeral establishment, the name of the person who received the
14 human remains on behalf of the crematory authority and the name
15 of the decedent. The crematory authority shall retain a copy of
16 this receipt in its permanent records.

17 (b) Release of remains.--Upon its release of cremated
18 remains, the crematory authority shall furnish to the person who
19 receives the cremated remains from the crematory authority a
20 receipt signed by both the crematory authority and the person
21 who receives the cremated remains showing the date and time of
22 the release, the name of the person to whom the cremated remains
23 were released and, if applicable, the name of the funeral
24 establishment, cemetery or other entity with whom the person is
25 affiliated, the name of the person who released the cremated
26 remains on behalf of the crematory authority and the name of the
27 decedent. The crematory authority shall retain a copy of this
28 receipt in its permanent records.

29 (c) Disposal.--The crematory authority shall maintain a
30 record of all cremated remains disposed of by the crematory

1 authority.

2 (d) Record for interment of cremated remains.--Upon
3 completion of the cremation, the crematory authority shall issue
4 the record for interment of cremated remains required by law to
5 whomever receives the cremated remains.

6 (e) Cemeteries.--All cemeteries shall maintain a record of
7 all cremated remains that are disposed of on their property,
8 provided that the cremated remains were properly transferred to
9 the cemetery which issued a receipt acknowledging the transfer
10 of cremated remains.

11 Section 7. Cremation containers.

12 Human remains must be delivered to a crematory in a casket or
13 cremation container marked with the decedent's name, date and
14 time of death and whether or not the remains have been embalmed.
15 Human remains and any personal property shall not be removed
16 from the casket or cremation container without the permission of
17 family and the casket or cremation container and the casket or
18 cremation container shall be cremated with the human remains
19 unless the crematory authority has been provided with written
20 instructions to the contrary by the authorizing agent or unless
21 the crematory authority does not accept metal caskets for
22 cremation.

23 Section 8. Cremation procedures.

24 (a) General rule.--Human remains shall not be cremated
25 within 24 hours after the time of death, as indicated on the
26 regular medical certificate of death or the coroner's
27 certificate. In the event such death comes under the authority
28 of the coroner or medical examiner, the human remains shall not
29 be received by the crematory authority until authorization to
30 cremate has been received in writing from the coroner or medical

1 examiner of the county in which the death occurred and provided
2 to the crematory authority. In the event the crematory authority
3 is also authorized to perform funerals as well as cremation,
4 this restriction on the receipt of human remains shall not be
5 applicable. In no instance shall the lapse of time between the
6 death and any cremation be less than 24 hours unless such death
7 was a result of an infectious, contagious or communicable and
8 dangerous disease and such requirement is waived in writing by
9 the medical examiner or coroner where the death occurred.

10 (b) Hazardous items.--No body shall be cremated with a
11 pacemaker or other potentially hazardous implant in place. The
12 authorizing agent for the cremation of the human remains shall
13 be responsible for informing the funeral director about a
14 pacemaker or other potentially hazardous implant. The
15 authorizing agent shall be responsible for any damage that
16 results from a failure to remove a pacemaker or implants if he
17 or she fails to inform the funeral director, when asked, about
18 their presence.

19 (c) Crematory Authority.--A crematory shall knowingly
20 cremate only human remains in cremation chambers, along with the
21 cremation container, personal effects of the deceased, and no
22 more than a negligible amount of chlorinated plastic pouches
23 utilized for disease control when necessary.

24 (d) Holding remains.--A crematory authority shall hold human
25 remains prior to their cremation according to the following:

26 (1) Whenever a crematory authority is unable to cremate
27 the human remains immediately upon taking custody of the
28 remains, the crematory authority shall place the human
29 remains in a refrigeration facility at 40 degrees Fahrenheit
30 or less at the crematory, unless the human remains have been

1 embalmed.

2 (2) A crematory authority shall not be required to
3 accept for holding a cremation container from which there is
4 evidence of leakage of the body fluids from the human remains
5 therein.

6 (e) Unauthorized persons.--No unauthorized person as shall
7 be determined by the crematory authority shall be permitted in
8 the crematory area while any human remains are in the crematory
9 area awaiting cremation, being cremated or being removed from
10 the cremation chamber.

11 (f) Multiple cremations.--The unauthorized, simultaneous
12 cremation of the human remains of more than one person within
13 the same cremation chamber is not allowed unless the crematory
14 authority has received specific written authorization to do so
15 from all authorizing agents for the human remains to be so
16 cremated. A written authorization shall exempt the crematory
17 authority from all liability for commingling of the cremated
18 remains during the cremation process.

19 (g) Verification.--Immediately prior to being placed within
20 the cremation chamber, the identification of the human remains,
21 as indicated on the cremation container, shall be verified by
22 the crematory authority.

23 (h) Residue.--Upon completion of the cremation, and insofar
24 as possible, all of the recoverable residue of the cremation
25 process shall be removed from the cremation chamber. Insofar as
26 possible, all residue from the cremation process shall then be
27 separated from anything other than bone fragments. The bone
28 fragments shall be processed so as to reduce them to
29 unidentifiable particles. Anything other than the particles
30 shall be removed from the cremated residuals as far as possible

1 and shall be disposed of by the crematory authority.

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

3 (1) The cremated remains with the proper identification
4 shall be placed in a temporary container or urn. The
5 temporary container or urn contents shall be packed in clean
6 packing materials and shall not be contaminated with any
7 other object unless specific authorization has been received
8 from the authorizing agent or as provided in this act.

9 (2) If the cremated remains do not fit within the
10 dimensions of a temporary container or urn, the remainder of
11 the cremated remains shall be returned to the authorizing
12 agent or his or her representatives in a separate container.
13 Both containers or urns shall be clearly marked on the
14 outside of the container or urn with the name of the deceased
15 person whose cremated remains are contained therein and an
16 indication that two containers are being used to hold the
17 cremated remains.

18 (3) If the cremated remains are to be shipped, the
19 temporary container or designated receptacle ordered by the
20 authorizing agent shall be packed securely in a suitable,
21 sturdy and pressure-resistant container which is not fragile
22 and is sealed properly. Cremated remains shall be shipped
23 only by a method which has an internal tracing system
24 available and which provides a receipt signed by the person
25 accepting delivery.

26 (j) Removal of body parts.--No funeral director or funeral
27 establishment shall remove body parts, permit others to remove
28 body parts or use funeral establishment facilities to remove
29 body parts from a corpse except as necessary to perform
30 embalming or other services in preparation for burial or

1 cremation authorized in writing by a family member, guardian or
2 other person responsible for disposition of the body. If a
3 funeral director is notified by a person authorized to make
4 donations pursuant to 20 Pa.C.S. Ch. 86, Subch. B (relating to
5 express anatomical gifts) that he wishes to donate body parts
6 from a corpse within the funeral director's custody, the funeral
7 director shall immediately notify the designated organ
8 procurement organization.

9 Section 9. Disposition of cremated remains.

10 (a) Responsibility.--The authorizing agent is responsible
11 for the disposition of the cremated remains. If, after a period
12 of 30 days from the date of cremation, the authorizing agent or
13 his representative has not specified the ultimate disposition of
14 or claimed the cremated remains, the crematory authority, the
15 funeral establishment or other person in possession of the
16 cremated remains may dispose of the cremated remains in any
17 manner permitted by law, except scattering. The authorizing
18 agent shall be responsible for reimbursing the crematory
19 authority and funeral establishment for all reasonable expenses
20 incurred in disposing of the cremated remains pursuant to this
21 section. A record of the disposition shall be made and kept by
22 the person making the disposition. Upon disposing of cremated
23 remains in accordance with this section, the crematory
24 authority, funeral establishment or person in possession of the
25 cremated remains shall be discharged from any legal obligation
26 or liability concerning such cremated remains. This section
27 shall apply to all cremated remains currently in the possession
28 of a crematory authority, funeral establishment or other party.

29 (b) Delivery.--The licensed funeral director shall deliver
30 the cremated remains to the individual specified by the

1 authorizing agent on the cremation authorization form. The
2 representative of the crematory authority and the individual
3 receiving the cremated remains shall sign a receipt indicating
4 the name of the deceased, the date, time and place of the
5 receipt and other information as provided in section 5. The
6 crematory authority shall retain a copy of the receipt.

7 Section 10. Limitation of liability.

8 (a) General rule.--Any person signing a cremation
9 authorization form as an authorizing agent shall be deemed to
10 warrant the truthfulness of any facts set forth in the cremation
11 authorization form, including the identity of the deceased whose
12 remains are sought to be cremated and that person's authority to
13 order such cremation. Any person signing a cremation
14 authorization form as an authorizing agent shall be personally
15 and individually liable for all damage occasioned thereby and
16 resulting therefrom. A crematory authority and a funeral
17 establishment may rely upon the representations of the
18 authorizing agent in the cremation authorization form.

19 (b) Funeral establishment.--A funeral establishment shall
20 have the authority to arrange the cremation of human remains
21 upon the receipt of a cremation authorization form signed by an
22 authorizing agent. A crematory authority shall have authority to
23 cremate human remains upon the receipt of a cremation
24 authorization form signed by an authorizing agent. A funeral
25 establishment or crematory authority that arranges a cremation,
26 cremates human remains or releases or disposes of the cremated
27 remains pursuant to such authorization shall not be liable for
28 such actions.

29 (c) Refusal.--

30 (1) A funeral establishment that refuses to arrange a

1 cremation and a crematory authority that refuses to accept a
2 body or to perform a cremation shall not be liable for
3 refusing to accept a body or to perform a cremation until
4 they receive a court order or other suitable confirmation
5 that a dispute has been settled:

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

8 (ii) if they have a reasonable basis for questioning
9 any of the representations made by the authorizing agent;

10 or

11 (iii) for any other lawful reason.

12 (2) If a funeral establishment or crematory authority is
13 aware of any dispute concerning the release or disposition of
14 the cremated remains, the funeral establishment or crematory
15 authority may refuse to release the cremated remains until
16 the dispute has been resolved or the funeral establishment or
17 crematory authority has been provided with a court order
18 authorizing the release or disposition of the cremated
19 remains. Funeral establishments and crematory authorities
20 shall not be liable for the refusal to release or dispose of
21 cremated remains in accordance with this subsection.

22 Section 11. Pacemakers and other battery-powered implants.

23 If any authorizing agent informs the funeral establishment in
24 writing on the cremation authorization form of the presence of a
25 pacemaker or other battery-powered implants in the human
26 remains, the funeral establishment shall be responsible for
27 ensuring that all necessary steps have been taken to remove the
28 pacemaker or other battery-operated implants before delivering
29 the human remains to the crematory. If the funeral establishment
30 that has received written notice of the presence of a pacemaker

1 or implant delivers the human remains to the crematory without
2 removing the pacemaker or implant from the human remains, and if
3 the human remains are cremated with the pacemaker or implant,
4 the funeral establishment that delivered the human remains to
5 the crematory shall also be liable for all resulting damages.

6 Section 12. Administration.

7 (a) General rule.--The department may adopt, promulgate,
8 amend and repeal such reasonable regulations as may be
9 consistent with this act. Such regulations shall include the
10 conditions under which human remains of persons dying from an
11 infectious, contagious or communicable disease can be
12 transported from any portion of this Commonwealth to a crematory
13 for the purpose of cremation, and minimum standards of
14 sanitation, required equipment and fire protection for all
15 crematories which the department may deem necessary for the
16 protection of the public.

17 (b) Crematory rules.--A crematory authority may enact
18 reasonable rules and regulations consistent with this act for
19 the management and operation of a crematory, the types of
20 cremation containers it will accept, authorization forms
21 required, witnesses to a cremation and similar provisions.
22 Nothing in this subsection shall prevent a crematory authority
23 from enacting rules and regulations which are more stringent
24 than the provisions contained in this act except that no
25 crematory authority shall make or enforce any rules requiring
26 that human remains be placed in a casket before cremation or
27 that human remains be cremated in a casket, nor shall a
28 crematory refuse to accept human remains for cremation for the
29 reason that they are not in a casket.

30 (c) Violations.--Violations of this act shall be punishable

1 as follows:

2 (1) Maintenance or operation of a building or structure
3 within this Commonwealth as a crematory in violation of the
4 provisions of this act or the rules and regulations of the
5 department adopted pursuant to this act is hereby declared to
6 be a public nuisance and may be abated as provided by law.

7 (2) Holding oneself out to the public as a crematory
8 authority without being licensed under this act, or
9 performing a cremation without a cremation authorization form
10 signed by an authorizing agent constitutes a misdemeanor of
11 the second degree. Each cremation shall constitute a separate
12 violation.

13 (3) No person shall engage in or conduct, or hold
14 himself out as engaging in or conducting, the activities of a
15 crematory manager without holding a valid, unexpired
16 crematory manager license. No licensed crematory manager
17 shall engage in or conduct, or hold himself out as engaging
18 in or conducting, the activities of a crematory manager
19 without being employed by, or without being a sole
20 proprietor, partner or corporate officer of a licensed
21 crematory.

22 (4) A violation of any other provision of this act
23 constitutes a misdemeanor of the third degree.

24 (5) A person commits a felony of the second degree if he
25 unlawfully takes or exercises unlawful control over a human
26 body part.

27 Section 13. Preneed cremation arrangements.

28 (a) General rule.--Any preneed contract sold by or preneed
29 arrangements made with a funeral establishment that includes a
30 cremation shall specify the ultimate disposition of the cremated

1 remains if known and that portion of the agreement shall be
2 initialed by the individual making the arrangements. In the
3 event no additional or different instructions are provided to
4 the funeral establishment by the authorizing agent at the time
5 of death, the funeral establishment and the crematory authority
6 shall be authorized to release or dispose of the cremated
7 remains as indicated in the preneed agreement. Upon compliance
8 with the terms of that preneed agreement, the funeral
9 establishment shall be released from any liability concerning
10 the disposition of the cremated remains.

11 (b) Specific provisions.--

12 (1) Any person or anyone who has legal authority to act
13 on behalf of a person may authorize his or her own cremation
14 and the final disposition of his or her cremated remains by
15 executing, as the authorizing agent, a cremation
16 authorization form on a preneed basis. The individual or
17 authorizing agent shall have the right to transfer the
18 arrangements for such cremation or cancel this authorization
19 at any time prior to death by rescinding the executed
20 cremation authorization form in writing and providing written
21 notice to funeral establishment.

22 (2) At the time of the death of a person who has
23 executed, as the authorizing agent, a cremation authorization
24 form on a preneed basis, any person in possession of an
25 executed form and any person charged with making arrangements
26 for the final disposition of the decedent who has knowledge
27 of the existence of an executed form shall use their best
28 efforts to ensure that the decedent is cremated and that the
29 final disposition of the cremated remains is in accordance
30 with the instructions contained on the cremation

1 authorization form. If a crematory authority is in possession
2 of a completed cremation authorization form that was executed
3 on a preneed basis, is in possession of the designated human
4 remains, the crematory authority shall be required to cremate
5 the human remains and dispose of the cremated remains
6 according to the instructions contained on the cremation
7 authorization form and may do so without any liability.

8 Section 14. Effective date.

9 This act shall take effect in 60 days.