
THE GENERAL ASSEMBLY OF PENNSYLVANIA

SENATE BILL

No. 874 Session of
2015

INTRODUCED BY MCGARRIGLE, TOMLINSON, RAFFERTY, VANCE, PILEGGI,
SCARNATI AND SCHWANK, JUNE 4, 2015

REFERRED TO CONSUMER PROTECTION AND PROFESSIONAL LICENSURE,
JUNE 4, 2015

AN ACT

1 Amending the act of August 14, 1963 (P.L.1059, No.459), entitled
2 "An act prohibiting future need sales of cemetery merchandise
3 and services, funeral merchandise and services, except under
4 certain conditions; requiring the establishment of and
5 deposit into a merchandise trust fund of certain amount of
6 the proceeds of any such sale; providing for the
7 administration of such trust funds and the payment of money
8 therefrom; conferring powers and imposing duties on orphans'
9 courts, and prescribing penalties," further providing for
10 deposits into merchandise trust funds; providing for price
11 and description reports; and further providing for funds held
12 in trust, for payments from merchandise trust funds, for
13 filing of financial reports and for penalty.

14 The General Assembly of the Commonwealth of Pennsylvania
15 hereby enacts as follows:

16 Section 1. Section 2 of the act of August 14, 1963
17 (P.L.1059, No.459), referred to as the Cemetery and Funeral
18 Merchandise Trust Fund Law, is amended to read:

19 Section 2. (a) Any person entering into any such contract as
20 the seller shall deposit into a merchandise trust fund,
21 established for that purpose with a banking institution in the
22 Commonwealth authorized to perform trust functions, as trustee
23 of such fund, seventy per cent of the retail sale price of the

1 personal property or personal services so sold for future need.

2 (b) The deposit herein required to be made into such
3 merchandise trust fund shall be made within thirty days after
4 [the end of the month in which the final payment of the purchase
5 price provided for under such contract is received by the seller
6 from the purchaser or otherwise. Prior to receipt by the seller
7 of final payment of the purchase price provided for under any
8 such contract, the seller, at the end of each month, shall
9 deposit, in a special account in a banking institution properly
10 identified as being for such purpose, all payments on account
11 received under any such contract during the month and ensuing
12 months commencing thereafter, after first deducting the
13 percentage permitted to be retained by seller. Withdrawals from
14 such special account shall be made by seller only for the
15 purpose of transfer to the merchandise trust fund upon final
16 payment of the purchase price by the purchaser under the
17 contract] any funds are received by the seller as provided for
18 under the contract, including periodic payments.

19 (c) If, prior to final payment of the purchase price under
20 the contract, the purchaser shall default in making payments on
21 account thereof, the seller shall not be entitled to retain [as
22 liquidated damages and withdraw from the special account thirty
23 percent of the contract price] any amount, and shall refund to
24 the purchaser the entire balance [in the special account, if
25 any] paid into the merchandise trust fund pursuant to the
26 contract. The total refund shall be paid to the purchaser within
27 sixty days of the default.

28 (d) Each deposit into the merchandise trust fund shall be
29 identified by the seller by furnishing the trustee with the name
30 of the purchaser, the amount of the retail sales price and the

1 percentage thereof herein required to be deposited, together
2 with a statement of or a copy of the contract and the personal
3 property and services to be furnished by the seller thereunder.
4 Nothing herein contained shall prohibit the trustee from
5 commingling the deposits in any such trust fund for purposes of
6 the management thereof and the investment of funds therein.

7 Section 2. The act is amended by adding a section to read:

8 Section 2.1. A seller must provide a detailed price list and
9 detailed description of the vault and casket and must adhere to
10 the Federal Trade Commission's Funeral Industry Practices
11 Revised Rules regarding the sale of the merchandise.

12 Section 3. Sections 4(a), 5, 6 and 10 of the act are amended
13 to read:

14 Section 4. (a) The funds held in trust shall remain intact
15 until delivery is made, services are performed or the death of
16 the person for whose benefit the said contract was made, and
17 upon submission of certified copy of death certificate or
18 certification by the seller to the trustees that delivery of the
19 personal property or performance of the services contracted for
20 have been fully completed. There shall be no delivery of
21 merchandise or product, except for mausoleums, markers and lawn
22 crypts, prior to the death of the person for whose benefit the
23 contract was made. Upon such certification having been made, the
24 amount of money on deposit to the credit of that particular
25 contract shall be paid to the person creating the trust fund.
26 Any trustee accepting the merchandise trust fund under the
27 provisions of this act may rely upon all such certifications
28 herein required to be made and shall not be liable to anyone for
29 such reliance.

30 * * *

1 Section 5. After final payment, if the purchaser moves out
2 of the State and upon written notice to the seller and to the
3 trustee the purchaser may cancel any such contract for the
4 furnishing of personal property or services prior to performance
5 by seller and to the death of the person for whose benefit such
6 contract was made, in which event, the purchaser shall be
7 entitled to receive from the trustee the principal amount of
8 money on deposit to the credit of that particular contract
9 [less], including the interest [which shall be returned to the
10 seller]. The total refund shall be paid to the purchaser within
11 sixty days of receipt of the written notice.

12 Section 6. (a) Every two years after effective date of this
13 act, the trustee shall, prior to the first of December, file a
14 financial report of the merchandise trust fund with the Consumer
15 Protection Bureau of the Office of Attorney General and the
16 orphans' court of the county in which the trustee is situate,
17 setting forth the principal thereof, the investments and
18 payments made and income earned and disbursed and the recipient
19 of any payment or disbursement.

20 (b) The orphans' court having jurisdiction over any such
21 merchandise trust fund or the Consumer Protection Bureau of the
22 Office of Attorney General may, at any time, require the person
23 creating the same or the trustee to file a report and submit its
24 records in relation to any such fund. If the court determines
25 that the fund is not being maintained in accordance with the
26 provisions of this act, it shall make such orders as may be
27 necessary to compel compliance with the provisions hereof.

28 Section 10. Any person knowingly violating the provisions of
29 this act or failing to make the required deposits into a
30 merchandise trust fund [or into a temporary special account]

1 shall be guilty of a misdemeanor, and, upon conviction thereof,
2 shall be sentenced to pay a fine of not less than five hundred
3 dollars (\$500) nor more than one thousand dollars (\$1000), or
4 undergo imprisonment for a term not exceeding one year, or both.
5 If the person violating the provisions of this act is a
6 corporation or association, the officer responsible for the
7 violation shall undergo any prison term imposed.

8 Section 4. This act shall take effect in 60 days.