

SENATE BILL NO. 823

March 05, 2020, Introduced by Senators WOJNO, POLEHANKI, BULLOCK, ALEXANDER and MACDONALD and referred to the Committee on Regulatory Reform.

A bill to regulate pet cemeteries; to regulate the sale of pet cemetery merchandise and services; and to prescribe penalties and remedies.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. This act shall be known and may be cited as the "pet
2 cemetery regulation act".

3 Sec. 3. As used in this act:

4 (a) "Columbarium" means a structure, room, or other space in a
5 building used or intended to be used for inurnment or deposit of

1 cremated pet remains.

2 (b) "Communal burial" means the interment of pet remains in a
3 grave designed to contain more than 1 pet in compliance with 1982
4 PA 239, MCL 287.651 to 287.683.

5 (c) "Crypt" means a chamber in a mausoleum of sufficient size
6 to entomb the uncremated remains of a deceased pet.

7 (d) "Dedication" means a restriction placed on the deed of
8 certain property that restricts the property to pet cemetery use.

9 (e) "Endowed care fund" means money or assets that are
10 collected or received from pet owners or others for individual
11 burials and are placed in a trust fund to be used exclusively for
12 the ongoing care, maintenance, operation, and supervision of the
13 pet cemetery.

14 (f) "Group cremation" means the cremation of pets communally
15 with no separation of remains.

16 (g) "Individual burial" means the interment of a single pet's
17 remains in a separate grave in a nonbiodegradable container.

18 (h) "Individual cremation" means the cremation of a single
19 pet's remains in a manner that separates the pet's remains from
20 those of other pet remains.

21 (i) "Maintenance fee" means a fee that is collected on
22 individual pet burials that is separate from the endowed care fund
23 and that is placed in the general fund of the cemetery for the care
24 and maintenance of individual pet gravesites.

25 (j) "Mausoleum" means a structure used, or intended to be
26 used, for the entombment of the remains of deceased pets in a crypt
27 or crypts in the structure.

28 (k) "Nonbiodegradable container" means a container that is
29 incapable of being readily decomposed by biological means,

1 especially by bacterial action.

2 (l) "Person" means an individual, partnership, corporation,
3 association, governmental entity, or other legal entity.

4 (m) "Pet" means an animal that has been tamed or adapted to
5 live in close association with human beings. Pet includes, but is
6 not limited to, a dog, cat, bird, rabbit, hamster, fish, reptile,
7 horse, large cat, and exotic animal.

8 (n) "Pet cemetery" means any land, place, structure, facility,
9 or building provided by any person for a fee, whether or not for
10 profit, to any person for use, or reservation for use, for the
11 individual interment below ground or entombment above ground of pet
12 remains. Pet cemetery does not include land used exclusively for
13 landfilling or the communal burial of pets, but does include a
14 portion of the land in a pet cemetery that is used for communal
15 burial of pets. Pet cemetery includes, but is not limited to, 1 or
16 a combination of more than 1 of the following:

17 (i) A burial ground for earth interment of pets.

18 (ii) A mausoleum for crypt entombment of pets.

19 (iii) A columbarium for the deposit of cremated pet remains.

20 (o) "Pet crematorium" means any land, structure, or facility
21 provided by any person for a fee, whether or not for profit, to
22 veterinarians or members of the general public for the individual
23 or communal cremation of pets.

24 (p) "Pet owner" means the person who is listed in the
25 veterinary records or pet cemetery or crematory records as the
26 owner of a pet. If a pet owner is a minor, a parent or legal
27 guardian is considered the owner of the pet for the purpose of the
28 disposal form required in section 21.

29 (q) "Veterinarian" means that term as defined in section 18805

1 of the public health code, 1978 PA 368, MCL 333.18805, or under a
2 state or federal law applicable to that person.

3 Sec. 5. (1) Except as otherwise provided in section 33, the
4 owner of any land or a portion of land that is clear of any
5 encumbrance that is being used or proposed to be used as a pet
6 cemetery shall file a dedication in the office of the register of
7 deeds of the county in which the land is located. The owner shall
8 execute the dedication in the same manner and with the effect as a
9 conveyance of an interest in land. The register of deeds shall
10 record the dedication in the record of deeds. Unless the
11 restriction is removed, a person shall not use land restricted as
12 provided for in this section for any purposes other than a pet
13 cemetery.

14 (2) Except as otherwise provided in section 33(1), if pet
15 cemetery property has an encumbrance on it by a financial
16 institution or private individual whose interest is first on the
17 deed, the owner of record of the pet cemetery shall adopt proper
18 and legal estate planning and trust arrangements, including a
19 mortgage or life insurance policy, to pay in full the encumbrance
20 on the property if the owner dies, at which time the personal
21 representative of the estate shall file with the register of deeds
22 a dedication as described in subsection (1).

23 Sec. 7. (1) Except as otherwise provided in section 33(2), a
24 person operating a pet cemetery in this state shall establish an
25 endowed care fund from which proceeds from a portion of the sale of
26 the individual burial rights are placed in a trust fund established
27 for the purposes described in this act. The proceeds must represent
28 not less than 15% of the sale price of the cemetery plot. All fees
29 collected for endowed care must be deposited not later than 30 days

1 after the time of receipt of payment.

2 (2) Beginning on the effective date of this act, a person that
3 operates a pet cemetery shall charge an endowed care fee to the
4 purchaser of individual burial rights. If the endowed care fee on
5 an individual burial remains unpaid for a period of 180 days after
6 interment, the person that operates the pet cemetery, after serving
7 notice to the pet owner by registered mail at the last known
8 address of the pet owner, may reclaim the land for cemetery use and
9 dispose of the pet's remains in a manner that the person that
10 operates the pet cemetery so chooses under this act and 1982 PA
11 239, MCL 287.651 to 287.683.

12 (3) The income from the endowed care fund established under
13 subsection (1) must be used for the care, maintenance, and
14 supervision of the cemetery and may be used to satisfy property
15 taxes and fees for accounting and annual reports. The annual report
16 of the fund must be available by request in writing by any pet
17 owner with burial rights to the cemetery.

18 (4) A person that operates a pet cemetery may include in its
19 customary charges a maintenance fee for the immediate maintenance
20 of the burial site except that the fee must not exceed the fee
21 charged for endowed care. The fees for maintenance must be
22 deposited in the general cemetery account and used for cemetery
23 maintenance only.

24 (5) If a maintenance fee charged under subsection (4) for an
25 individual burial remains unpaid for 180 days after billing, the
26 operator of the cemetery, after serving notice on the pet owner by
27 registered mail at the last known address of the pet owner, may
28 reclaim the land and dispose of the pet in a manner that the
29 cemetery operator so chooses under this act and 1982 PA 239, MCL

1 287.651 to 287.683.

2 Sec. 9. A person desiring to establish a pet cemetery shall
3 deposit \$10,000.00 in the endowed care fund established under
4 section 7 to be handled in accordance with this act. If the
5 cemetery has generated an additional \$10,000.00 that has been
6 placed in the endowed care fund from the individual burial of pets
7 whose endowed care fees have been paid, the owner of the original
8 \$10,000.00 deposited into the account may then withdraw his or her
9 funds.

10 Sec. 11. A person shall not operate a pet cemetery in this
11 state that is less than 3 acres in size unless that pet cemetery
12 was established before the effective date of this act.

13 Sec. 13. After the effective date of this act, a person that
14 operates a pet cemetery that offers to make arrangements in advance
15 of interment for individual burials shall place 130% of the costs
16 of tangible goods, including, but not limited to, caskets and grave
17 markers, in a preneed fund, separate from the general fund of the
18 cemetery, to be held until the time of the pet's interment.

19 Sec. 15. (1) A pet owner who owns burial rights in a cemetery
20 shall keep the operator of the pet cemetery fully informed of his
21 or her current mailing address.

22 (2) If 10 years pass after the purchase of preneed burial
23 arrangements without use or notification of a current address, the
24 property reverts back to the owner of the pet cemetery for resale.
25 All money held on deposit for that pet owner for tangible items may
26 be deposited in the general fund of the pet cemetery. If the pet
27 owner comes forward after the 10-year period, the operator of the
28 pet cemetery shall reassign an interment right of equal value in as
29 close proximity to the original location as possible and at no

1 additional cost to the pet owner.

2 Sec. 17. A person operating a pet cemetery shall keep accurate
3 and complete records of all burial agreements, preneed
4 arrangements, and endowed care deposits. Copies of all records must
5 be kept in duplicate and 1 copy must be kept in a manner that
6 protects it from destruction by any unforeseen event.

7 Sec. 19. (1) A person operating a pet crematorium shall keep
8 accurate and complete records of each pet that it cremates,
9 including the owner's name, address, pet's name, breed, color,
10 weight, and date of acquiring the pet's body and delivery of
11 remains. The pet crematorium shall hold all cremation records for a
12 period of not less than 1 year following the cremation.

13 (2) A person operating a pet crematorium must have the proper
14 permits in place from the department of environment, Great Lakes,
15 and energy air quality control division and otherwise comply with
16 applicable state and federal laws.

17 Sec. 21. (1) A person that operates a pet cemetery shall
18 disclose to the pet owner disposal options available, whether
19 communal burial, group cremation, landfill, rendering, or
20 individual burial or cremation. The operator at the pet cemetery
21 shall make this disclosure on a form that must be signed by the pet
22 owner. More than 1 pet may be interred in a grave in a
23 nonbiodegradable container if the pet owner consents in writing.

24 (2) If the pet owner has chosen individual burial or cremation
25 for his or her pet, a copy of the disposal form must be provided to
26 the person that operates the pet cemetery to keep with the pet's
27 permanent records.

28 (3) If a pet owner is not available to execute the disposal
29 form, a veterinarian in charge may execute the form acting on the

1 written or verbal request of the pet owner.

2 (4) If the pet owner cannot be found, a disposal form is not
3 required.

4 Sec. 23. A person that owns a parcel of land other than a pet
5 cemetery or landfill that is used for the communal burial of pets
6 shall file a declaration on the deed to that property stating that
7 the land has been used as a communal pet burial ground and shall
8 also file a copy of that declaration with the director of the
9 department of natural resources.

10 Sec. 25. This act does not exempt a person establishing a pet
11 cemetery from obtaining any use permits from the local unit of
12 government that has jurisdiction over the land in which the pet
13 cemetery is located or the proposed pet cemetery is to be located.

14 Sec. 27. An operator of a pet cemetery that has dedicated the
15 cemetery land for the sole use of cemetery purposes and has the
16 endowed care fund established under section 7 is exempt from the
17 tax levied under the general property tax act, 1893 PA 206, MCL
18 211.1 to 211.155.

19 Sec. 29. (1) A court shall remove a dedication of the land
20 under this act on proof satisfactory to the court that 1 or more of
21 the following have occurred:

22 (a) No interments have been made in the dedicated land.

23 (b) All pet remains have been removed from the land from which
24 the dedication is to be removed and notice was given in the manner
25 provided for in section 31.

26 (c) The owner of the pet cemetery or his or her heirs or
27 assigns have received from those persons who own burial rights in
28 the cemetery written authorization acknowledged before a notary
29 public to remove the dedication on the land.

1 (2) A person granting authorization to have a pet that is
2 already interred in the pet cemetery removed and reinterred
3 elsewhere shall state that fact on the authorization, and the pet
4 cemetery owner, at the cemetery owner's expense, shall remove the
5 pet's remains and have them reinterred elsewhere, providing proof
6 of this removal and reinterment.

7 (3) If a preneed burial right purchase has been made under
8 section 13 but has not been used and the pet cemetery owner refunds
9 the purchase price plus interest, the interest must be computed in
10 a manner and at a rate agreed on between the operator of the pet
11 cemetery and the owner of the burial right but not to exceed the
12 average current rate of interest for savings accounts.

13 Sec. 31. (1) If there is no current address or location of an
14 owner of record to burial rights, the pet cemetery owner shall
15 publish a notice in a newspaper of general circulation for a period
16 of 2 weeks that the pet cemetery owner intends to remove the
17 remains and reinter them in another pet cemetery within this state
18 at the cemetery owner's expense to satisfy the court for the
19 removal of the restriction as described in section 29.

20 (2) On the reinterment of all pets from the cemetery before
21 the removal of the restriction as described in section 29, the
22 owner of the cemetery shall transfer all necessary endowed care
23 money from the established endowed care fund of the cemetery to the
24 established endowed care fund or funds of the cemetery or
25 cemeteries accepting the pets for burial so that the endowed care
26 will continue for those pets' graves. Any remaining money in the
27 endowed care fund must be used at the pet cemetery owner's
28 discretion to place the cemetery back to marketable condition
29 following the removal of all gravesites.

1 Sec. 33. (1) A person that owns a pet cemetery that is
2 organized or developed and operating on the effective date of this
3 act is exempt from complying with section 5 for 2 years after the
4 effective date of this act.

5 (2) A person that owns a pet cemetery that is organized or
6 developed and operating on the effective date of this act is exempt
7 from complying with section 7 for 1 year after the effective date
8 of this act.

9 Sec. 35. A person who violates this act is guilty of a
10 misdemeanor, punishable by a fine of not less than \$2,000.00, or
11 imprisonment for not less than 90 days, or both.