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SENATE FILE

329

BY DOTZLER

Passed Senate, Date _____ Passed House, Date _____
 Vote: Ayes _____ Nays _____ Vote: Ayes _____ Nays _____
 Approved _____

A BILL FOR

1 An Act relating to the licensure of persons owning or operating
 2 pet cemeteries and pet crematoriums, establishing standards
 3 and fees, making an appropriation, and providing for criminal
 4 penalties.

5 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:

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SF 329
COMMERCE

1 Section 1. NEW SECTION. 566B.1 LEGISLATIVE FINDINGS.

2 The general assembly finds that the relationships that
3 humans develop with other members of the animal kingdom that
4 are taken into homes and maintained as pets are unique and
5 special. These relationships can enrich lives and increase
6 happiness. Even after the death of a pet, human attachment to
7 the memory of the pet often remains very strong and many
8 people feel the need to memorialize the love felt for the
9 animal by burying the pet in a pet cemetery. Pet cemeteries
10 and their owners and operators have a special responsibility
11 to customers who have entrusted pet remains to them. These
12 pet cemeteries have a duty to act in an ethical and lawful
13 manner to prevent grieving pet owners from experiencing
14 further emotional pain or financial manipulation.
15 Perpetrations of fraud against grieving pet owners are
16 unconscionable.

17 The general assembly further finds that the people of this
18 state have a vital interest in the establishment, maintenance,
19 and preservation of pet cemeteries and pet crematoriums and
20 the proper operation of the businesses and individuals that
21 own and manage the business. This chapter is determined to be
22 an exercise of the police powers of this state to protect the
23 well-being of citizens of this state, to promote the public
24 welfare, to promote the health of the public, and to prevent
25 pet cemeteries and pet crematoriums from falling into
26 disrepair and dilapidation and becoming a burden upon the
27 community.

28 Sec. 2. NEW SECTION. 566B.2 DEFINITIONS.

29 As used in this chapter, unless the context requires
30 otherwise:

31 1. "Commissioner" means the commissioner of insurance or
32 the commissioner's designee.

33 2. "Entombment" means the placement of a pet in a grave or
34 tomb.

35 3. "Individual burial" means the interment of a single

1 pet's remains in a separate grave. This chapter shall not
2 prevent the interment of more than one pet in a grave with the
3 written consent of the pet owner.

4 4. "Individual cremation" means the cremation of a single
5 pet's remains in a separate receptacle that allows the pet's
6 cremains to remain separate from the cremains of other pets.

7 5. "Inurnment" means the placement of pet cremains in a
8 grave, urn, or tomb.

9 6. "Licensee" means a person licensed to engage in the
10 business of operating a pet cemetery or pet crematorium under
11 this chapter.

12 7. "License fee and renewal fee" means the fees required
13 to accompany an application for issuance of any license,
14 including any temporary, apprentice, or renewal license,
15 pursuant to this chapter.

16 8. "Mass burial" means the interment of pet remains
17 communally in a grave containing more than one pet.

18 9. "Mass cremation" means the cremation of pets communally
19 in a receptacle containing more than one pet.

20 10. "Pet" means any domestic animal that has been adapted
21 or tamed to live in intimate association with people,
22 including but not limited to dogs, cats, rodents, fish, birds,
23 snakes, turtles, lizards, frogs, and rabbits.

24 11. "Pet cemetery" means any land, place, structure,
25 facility, or building provided by any person for a fee,
26 whether or not for profit, to veterinarians or members of the
27 general public for use, or reservation for use, for the
28 permanent interment or inurnment above or below ground of pet
29 remains. However, this definition shall not apply to:

30 a. Rendering plants regulated pursuant to chapter 189A.

31 b. A landfill or other disposal facility at which solid
32 waste, or its residue after treatment, is intentionally placed
33 and at which solid waste shall remain indefinitely.

34 12. "Pet crematorium" means any land, place, structure,
35 facility, or building provided by any person for a fee,

1 whether or not for profit, to veterinarians or members of the
2 general public for the cremation of pets. However, a pet
3 crematorium shall not provide for permanent interment or
4 inurnment of pet remains. This definition does not apply to
5 facilities designed for resource recovery or infectious
6 medical waste incinerators, both as regulated by chapter 455B.

7 13. "Pet owner" means the person who is listed as the
8 owner of the pet in veterinary records or pet cemetery or
9 crematorium records or the person's agent or employee. If
10 such a pet owner is a minor, a parent or legal guardian of the
11 minor or the parent's or legal guardian's agent or employee
12 shall be deemed the pet owner for the purposes of the pet
13 disposal form required in section 566B.16.

14 14. "Veterinarian" means a person licensed to practice the
15 profession of veterinary medicine pursuant to chapter 169.

16 Sec. 3. NEW SECTION. 566B.3 LICENSE REQUIRED.

17 On and after December 1, 2003, a person shall not engage
18 for a fee in the business of operating a pet cemetery or pet
19 crematorium or represent the person as being able to do so
20 unless the person is licensed pursuant to this chapter. A
21 person licensed in accordance with this chapter may employ
22 individuals to assist in the operation of a pet cemetery or
23 pet crematorium.

24 Sec. 4. NEW SECTION. 566B.4 AUTHORITY TO ADOPT RULES --
25 POWERS.

26 In addition to specific authority granted elsewhere in this
27 chapter, the commissioner shall adopt administrative rules
28 pursuant to chapter 17A as are necessary to administer this
29 chapter, and issue orders as are necessary to administer this
30 chapter. Rules to be adopted shall include, but are not
31 limited to, the following:

32 1. To appoint an adequate number of assistants,
33 inspectors, and other employees as may be necessary to
34 administer this chapter, to prescribe duties, and to fix
35 compensation.

1 2. To establish the form and content of applications for
2 licenses, the procedure for the application process, the
3 standards for licensure, and the disciplinary process and
4 penalties for violations of the standards of licensure.

5 3. To investigate applicants and determine their
6 eligibility for licenses under this chapter.

7 4. To keep records of all licenses issued, suspended, or
8 revoked.

9 5. To provide standards and an enforcement process for
10 operation of a facility for pet disposal for a fee, whether by
11 earth burial, entombment, inurnment, cremation, or otherwise,
12 the form and content of pet disposal forms, and registration
13 of disposals by pet cemeteries or pet crematoriums.

14 6. To enter the office, grounds, and buildings of any pet
15 cemetery or pet crematorium periodically or upon receiving a
16 complaint to determine compliance with this chapter. Local
17 boards of health shall cooperate by, upon request of the
18 commissioner, conducting the periodic inspections as well as
19 inspections pursuant to complaints to facilitate the
20 enforcement of this chapter, and the commissioner may delegate
21 authority to a local board to enforce rules and sanctions
22 adopted and imposed by the commissioner. The county shall be
23 compensated for services under this provision at a rate
24 established by rule. The costs of periodic inspections shall
25 not be charged to a licensee. However, the costs of
26 investigations of complaints may be charged to a licensee.

27 7. To conduct a financial audit of all business records,
28 trust fund records, and pet disposal forms for any pet
29 cemetery or pet crematorium.

30 8. To issue a subpoena for persons or records deemed
31 appropriate to an investigation or any other action taken
32 pursuant to this chapter.

33 9. To provide procedures to regulate, for the protection
34 of consumers, the operation of pet cemeteries and pet
35 crematoriums whose licenses to operate are suspended, revoked,

1 or not renewed.

2 Sec. 5. NEW SECTION. 566B.5 LICENSE -- APPLICATION.

3 1. Any person may make application to the commissioner to
4 obtain a license to engage in the business of operating a pet
5 cemetery or pet crematorium under this chapter. The
6 application form shall be provided by the commissioner and
7 shall, at a minimum, require the signature of the applicant
8 and that the applicant shall provide all of the following
9 information:

10 a. The name and address of the applicant as follows:

11 (1) If an individual, the name under which the business is
12 to be conducted.

13 (2) If a partnership, the name and business address of
14 each partner, and the name under which business is to be
15 conducted.

16 (3) If a corporation, the name of the corporation and the
17 name and business address of each stockholder of the
18 corporation holding more than ten percent of the total stock.

19 b. The complete address or addresses where the business is
20 to be conducted.

21 c. A summary of all relevant experience of all persons
22 listed in paragraph "a", in the operation of a cemetery, pet
23 cemetery, crematorium, pet crematorium, or in the management
24 of funds.

25 d. Satisfactory evidence of good moral character.

26 e. Further information as the commissioner may prescribe
27 by rule.

28 2. The commissioner shall not issue a license to any
29 person who:

30 a. Has had a license to operate a pet cemetery or pet
31 crematorium suspended or revoked by the commissioner.

32 b. Has been convicted within the last five years of a
33 felony under the laws of this state involving fraud, bribery,
34 perjury, or theft, or has been convicted under the laws of any
35 other state or of the United States of a criminal offense

1 which, if committed and prosecuted in this state, would
2 constitute a similar felony under such laws of this state.

3 3. Any person who has had an application for a license
4 rejected by the commissioner may appeal pursuant to section
5 566B.9.

6 Sec. 6. NEW SECTION. 566B.6 LICENSES -- DISPLAY --
7 RENEWAL -- DUPLICATES.

8 1. All licenses issued pursuant to this chapter shall be
9 for a period of two years.

10 2. A license shall not be assignable or transferable
11 except as follows:

12 a. A license to conduct the business of operating a pet
13 cemetery or pet crematorium issued to an individual may be
14 assigned or transferred for the remainder of the license
15 period to a partnership or corporation if the individual is a
16 member of the partnership or an officer of the corporation at
17 the time of the assignment or transfer.

18 b. A license issued to a partnership may be assigned or
19 transferred for the remainder of the license period to any one
20 member of the partnership, provided the consent of all of the
21 other members of the partnership is obtained.

22 c. A license issued to a corporation may be assigned or
23 transferred for the remainder of the license period to any
24 officer of the corporation, provided the consent of all of the
25 other officers of the corporation is obtained.

26 3. Any application for transfer or assignment of a license
27 must be submitted to the commissioner, accompanied by the
28 documents demonstrating compliance with the requirements of
29 subsection 2. An assignment or transfer shall not be
30 effective until the license has been returned to the assignee
31 or transferee with the commissioner's approval. Fees are not
32 applicable to transfers of licenses.

33 4. A bona fide purchaser of a business licensed under this
34 chapter may continue to use the license of the seller on a
35 temporary basis from the date of the sale for conducting

1 business as follows:

2 a. The signatures of both the seller and the purchaser and
3 the date of sale are shown on the face of the license.

4 b. Within five days from the date of the sale, the
5 purchaser shall submit an application for a license to conduct
6 the business of operating a pet cemetery or pet crematorium.

7 c. The seller's license shall be valid until the
8 purchaser's license application is either granted or denied by
9 the commissioner.

10 5. A license to conduct the business of operating a pet
11 cemetery or pet crematorium issued to an individual or to a
12 partnership may be used, on a temporary basis, after the death
13 of the licensed individual or copartner by the next of kin or
14 duly appointed administrator or executor in the name of the
15 estate from the date of death of the licensed individual or
16 copartner as follows:

17 a. The face of the license displays, after the name of the
18 decedent, the word "deceased", the date of death, and the name
19 of the next of kin, administrator, or executor under whose
20 authority the license is being used.

21 b. Within thirty days of the date of death of the
22 licensee, the next of kin, administrator, or executor shall
23 submit an application for a license to conduct the business of
24 operating a pet cemetery or pet crematorium.

25 c. Such license shall be valid until the license
26 application of the next of kin, administrator, or executor is
27 either granted or denied by the commissioner.

28 6. A license to conduct the business of operating a pet
29 cemetery or pet crematorium shall be conspicuously posted upon
30 the premises where the licensee is engaged in the business of
31 operating a pet cemetery or pet crematorium.

32 7. Any license that has not been suspended or revoked may,
33 upon the payment of the renewal fee prescribed by this
34 chapter, be renewed for additional periods of two years, upon
35 the filing of an application for renewal on a form to be

1 prescribed by the commissioner and payment of a renewal fee.

2 a. Any licensee failing to file a renewal application and
3 submit the fee within forty-five days of the expiration of the
4 person's license under this chapter shall pay an additional
5 fee of sixty dollars.

6 b. Any licensee failing to file a renewal application and
7 submit the fee within ninety days of the expiration of the
8 person's license under this chapter shall be ineligible for a
9 license until the person shall have again met the requirements
10 of section 566B.5.

11 8. If a license issued under this chapter is lost or
12 destroyed, a licensee may, upon submission of an application
13 and payment of a fee, obtain a duplicate license upon
14 furnishing proof satisfactory to the commissioner that the
15 original license has been lost or destroyed. Each duplicate
16 license shall have the word "duplicate" stamped across the
17 front, and shall bear the same number as the license it
18 replaces.

19 9. A licensee shall give notice in writing to the
20 commissioner within thirty days of any change in address of
21 the business or residence of a licensee. The commissioner
22 shall affix an endorsement on the front of the original
23 license as to the change. A change of address by a licensee
24 without notice to and endorsement by the commissioner shall
25 operate to cancel the license.

26 Sec. 7. NEW SECTION. 566B.7 FEES -- APPROPRIATION.

27 1. The fee for a license to engage in the business of
28 operating a pet cemetery or pet crematorium shall be one
29 hundred fifty dollars. For each renewal thereof, the fee
30 shall be one hundred fifty dollars.

31 2. The fee for issuing a duplicate license shall be
32 twenty-five dollars.

33 3. The fee for changing a name or address shall be ten
34 dollars.

35 4. The fees set forth shall be for licenses issued for the

1 license period of two years. A reduction or refund in fees
2 shall not be provided for late renewals or surrender or
3 revocation or suspension of a license.

4 5. A municipality seeking a license to operate a pet
5 cemetery or pet crematorium shall not be charged any fees.

6 Notwithstanding section 8.33, moneys derived from the
7 administration of this chapter shall not revert to the general
8 fund of the state, and are appropriated to the commissioner
9 for administration, licensing, and inspections conducted
10 pursuant to this chapter.

11 Sec. 8. NEW SECTION. 566B.8 DENIAL OF LICENSE
12 APPLICATION -- SUSPENSION AND REVOCATION OF LICENSES.

13 1. An application for a license under this chapter may be
14 denied or a license to engage in the business of operating a
15 pet cemetery or pet crematorium may be suspended or revoked by
16 the commissioner for any one or more of the following causes:

17 a. Fraud or bribery in securing a license.

18 b. The making of any false statement as to a material
19 matter in any application or other statement or certificate
20 required by or pursuant to this chapter.

21 c. Incompetence in the operation of a pet cemetery or pet
22 crematorium.

23 d. Failure to display a license as provided in this
24 chapter.

25 e. Violation of any provision of this chapter, or of any
26 rule adopted pursuant to this chapter.

27 f. Conviction of a crime involving fraud, theft, perjury,
28 or bribery, or other cause which would permit disqualification
29 upon an original application.

30 g. Failure to retain all pet disposal forms for a period
31 of two years following receipt.

32 h. Failure to comply with the duties of an owner or
33 operator of a pet crematorium as set out in this chapter.

34 i. Conviction of a violation of chapter 717B.

35 2. If a license to engage in the business of operating a

1 pet cemetery or pet crematorium is revoked, the license shall
2 not be reinstated or reissued until after the expiration of a
3 period of five years from the date of the revocation, and only
4 upon approval of the commissioner of a license application
5 pursuant to section 566B.5.

6 Sec. 9. NEW SECTION. 566B.9 HEARING.

7 1. Any license suspension or revocation, or the imposition
8 of any fine or reprimand, shall not be imposed until after a
9 hearing. All actions initiated by the commissioner are
10 subject to contested case proceedings and further review
11 pursuant to chapter 17A.

12 2. Any person who has had an application for a license
13 rejected shall be entitled to a hearing, contested case
14 proceedings, and further review pursuant to chapter 17A.

15 Sec. 10. NEW SECTION. 566B.10 VIOLATIONS -- PENALTIES.

16 1. If an audit or investigation provides reasonable
17 evidence that a person has violated this chapter, or any rule
18 adopted pursuant to this chapter, the commissioner may issue
19 an order directed at the person to cease and desist from
20 engaging in such act or practice. In addition to any other
21 penalty, the commissioner may direct a licensee to pay the
22 reasonable costs of investigation of any complaint filed
23 pursuant to this chapter, unless the commissioner determines
24 the complaint to be totally without merit.

25 2. The commissioner shall notify the attorney general if
26 the commissioner finds that a business operated subject to
27 regulation under this chapter meets one or more of the
28 following grounds for the establishment of a receivership:

29 a. Is insolvent.

30 b. Has utilized trust funds for personal or business
31 purposes in a manner inconsistent with the requirements of
32 this chapter, and the amount of funds currently held in the
33 trust is less than the amount required by this chapter.

34 The commissioner or the attorney general may apply to the
35 district court in any county of the state for a receivership.

1 Upon proof of any of the grounds for a receivership described
2 in this section, the court may grant a receivership.

3 3. The commissioner or the attorney general may apply to
4 the district court for an injunction to restrain any licensee
5 subject to this chapter and any agents, employees, trustees,
6 or associates of the licensee from engaging in conduct or
7 practices deemed a violation of this chapter or rules adopted
8 pursuant to this chapter. Upon proof of any violation of this
9 chapter described in the petition for injunction, the court
10 may grant the injunction. The commissioner or the attorney
11 general shall not be required to post a bond. Failure to obey
12 a court order under this subsection constitutes contempt of
13 court.

14 4. A licensee who violates any of the provisions of this
15 chapter after notice to cease and desist, or who continues to
16 engage in the business of operating a pet cemetery or pet
17 crematorium after having had the person's license suspended or
18 revoked, or who, without a license to engage in the business
19 of operating a pet cemetery or pet crematorium, directly or
20 indirectly employs, permits, or authorizes an unlicensed
21 person to engage in the business of operating a pet cemetery
22 or pet crematorium, shall upon conviction for the first
23 offense be guilty of a serious misdemeanor. If the conviction
24 is for a subsequent offense committed after the first
25 conviction under this chapter, such person shall be guilty of
26 an aggravated misdemeanor. Each violation of this chapter
27 shall be deemed a separate offense.

28 5. The commissioner or the attorney general may include
29 the costs of investigation in any request for restitution made
30 to a court hearing a criminal action brought pursuant to a
31 violation of this chapter.

32 Sec. 11. NEW SECTION. 566B.11 DEDICATION OF REAL
33 PROPERTY FOR PET CEMETERY PURPOSES.

34 1. The owner of any real property used or to be used for a
35 pet cemetery shall file, or cause to be filed, in the office

1 of the county recorder of the county in which the real
2 property is located, a dedication restricting the real
3 property to be used only for purposes as are usual and
4 customary for the operation of a pet cemetery. The owner of
5 the real property shall additionally file a certified copy of
6 the dedication, together with notation of the date, time,
7 book, and page of filing by the county recorder with the
8 commissioner. The filing with the commissioner shall
9 additionally include a copy of a survey map and appropriate
10 zoning approvals as may be reasonably required by the
11 commissioner.

12 2. The owner or operator of every pet cemetery shall keep
13 adequate records of all purchasers of space for pet remains
14 within the grounds of such pet cemetery.

15 Sec. 12. NEW SECTION. 566B.12 REMOVAL OF DEDICATION OF
16 REAL PROPERTY.

17 A dedication restricting real property for the operation of
18 a pet cemetery may only be amended or removed by order of the
19 district court of the county where the pet cemetery is
20 located. A petition for amendment or removal of dedication
21 shall include written consent by all persons who purchased or
22 otherwise are entitled to rights of disposal or rights to
23 continuing care of a pet grave in that portion of the pet
24 cemetery for which the dedication is sought to be amended or
25 removed. If the portion of the pet cemetery for which the
26 dedication is sought to be amended or removed includes pet
27 remains, the pet remains must be removed, upon the written
28 consent of all persons who purchased or are otherwise entitled
29 to rights of disposal or rights to continuing care of a pet
30 grave, their heirs or assigns, with the removal to be entirely
31 at the cost of the owner of the pet cemetery. The court, upon
32 proof of diligent efforts and as determined by the court, may
33 dispense with the written consent of any person who purchased
34 or is otherwise entitled to rights of disposal whose
35 whereabouts, identity, or heirs or assigns are unknown. If

1 the court has dispensed with any person's written consent
2 under this section, the court may make a determination as to
3 the consideration appropriate for such consent and order that
4 the consideration be deposited with the court. The
5 consideration shall be paid to such person upon appropriate
6 proof of claim. The court shall proceed according to the
7 provisions of chapter 556 in regard to unclaimed
8 consideration.

9 The petition for amendment or removal of dedication may
10 additionally include an environmental audit if required by the
11 court, which shall identify any environmental problems caused
12 by the pet cemetery activity, including an identification of
13 pet disposal sites. If the environmental audit identifies any
14 environmental problem, a plan for the correction or
15 remediation of such problems shall be included, including
16 financial, human, and other resource estimates, and projected
17 time schedules for the completion of the corrective and
18 remedial actions, with the court to make any order on the
19 petition conditional upon the completion of any corrective and
20 remedial action or upon the deposit with the court of an
21 amount of money determined necessary to complete the
22 remediation or correction.

23 Sec. 13. NEW SECTION. 566B.13 AREA REQUIREMENTS.

24 A pet cemetery that commences operations on or after the
25 effective date of this Act and that provides for the permanent
26 interment of pets shall consist of not less than five
27 contiguous acres of real property in total area, inclusive of
28 any structures, facilities, or buildings situated thereon and
29 used for the business purposes of the pet cemetery. The
30 commissioner may grant a waiver of the minimum size limit
31 based on factors including the number of aboveground
32 entombments, the number of remains buried, and the nature of
33 the surrounding community. A city or municipality may adopt a
34 local ordinance that provides for an area requirement greater
35 than five contiguous acres of real property.

1 Sec. 14. NEW SECTION. 566B.14 MAINTENANCE FEES.

2 1. A pet cemetery owner may charge a pet owner a permanent
3 maintenance endowment fee for the care of the pet cemetery.
4 Any permanent maintenance endowment fee paid shall be placed
5 by the pet cemetery owner into a permanent maintenance
6 endowment care or similar trust fund.

7 2. In lieu of a permanent maintenance endowment fee, the
8 pet cemetery owner and a pet owner may enter into a contract
9 for care of the pet cemetery on an annual basis. The pet
10 owner shall then be charged an annual maintenance fee. Only
11 one contract for annual maintenance shall be entered into per
12 gravesite. The contract shall state specifically the amount
13 of the annual maintenance fee. The contract shall also state
14 that failure to pay the annual fee can result in the
15 disinterment of the pet.

16 a. The annual maintenance fee, billed each calendar year,
17 shall be deposited by the pet cemetery owner in the general
18 account of the pet cemetery to be used for pet cemetery
19 operation and maintenance during the succeeding years. For
20 the purposes of this section and section 566B.15, the term
21 "pet cemetery operation and maintenance" shall mean all costs
22 incurred to operate and maintain a pet cemetery, including
23 salaries and bonuses for employees, officers, and directors,
24 but shall not include any fines or penalties imposed on the
25 pet cemetery or its employees, officers, or directors by the
26 commissioner or other agency or court.

27 b. If the annual maintenance fee is not paid within ninety
28 days of the date due, the pet cemetery owner shall notify the
29 pet owner in writing that such fee is due and payable. If
30 such annual maintenance fee is not paid within ninety days of
31 the notice, the disposal rights or rights to continuing care
32 of a pet grave of the pet owner shall terminate.

33 c. If the annual maintenance fee is not paid within one
34 hundred eighty days of the date it is due, the disposal rights
35 of a pet owner shall terminate and the pet cemetery owner may

1 at anytime thereafter remove the pet remains and if removed
2 dispose of remains by mass cremation or mass burial.

3 d. A pet owner may prepay annual maintenance fees for any
4 number of years in advance. Prepaid annual maintenance fees
5 shall be deposited in the manner of permanent maintenance
6 endowment fees, and an annual statement shall be sent
7 reflecting the withdrawal of the annual maintenance fee and
8 the balance of prepaid annual maintenance fees remaining.

9 e. The pet cemetery owner shall maintain individual
10 records of account for each permanent maintenance endowment
11 fee and each annual maintenance fee contract pursuant to
12 section 566B.19, and shall make the records accessible to the
13 commissioner pursuant to section 566B.4.

14 Sec. 15. NEW SECTION. 566B.15 ENDOWMENT CARE -- TRUST
15 FUNDS.

16 1. A pet cemetery that commenced operations prior to the
17 effective date of this Act shall establish an endowment care
18 or similar trust fund, the balance of which shall not be less
19 than twelve thousand dollars, by January 1, 2004. The
20 commissioner may grant a waiver to this requirement if an
21 endowment care or similar trust fund is established and twelve
22 thousand dollars is placed in such fund within a reasonable
23 amount of time not to exceed ten years from the effective date
24 of this Act, and if the provisions of this section will
25 present a significant financial hardship to the owner or
26 operator.

27 2. A pet cemetery that commences operations on or after
28 the effective date of this Act shall, prior to the acceptance
29 of any moneys as permanent maintenance endowment fees or
30 annual maintenance fees, establish an endowment care or
31 similar trust fund for the permanent operation and maintenance
32 of the pet cemetery, in an amount of not less than twelve
33 thousand dollars.

34 3. The fiduciary holding such endowment care or similar
35 trust fund shall have such power to invest the moneys in the

1 fund as set forth in chapter 633. The interest earnings of
2 such an endowment care fund shall be used for the maintenance
3 of both occupied and unoccupied lots or spaces. Any remaining
4 interest may be used for costs of access roads and paths,
5 fencing, and general maintenance of the pet cemetery.

6 4. Any distribution of the original twelve thousand dollar
7 principal of such an endowment care or similar trust fund
8 shall only be upon order of the district court of the county
9 where the pet cemetery is located, for good cause, and
10 exclusively for the operation and benefit of such pet
11 cemetery. Unless such distribution of principal shall be as
12 part of a removal of dedication for the pet cemetery, the
13 court order shall additionally make adequate provision for the
14 permanent maintenance of the pet cemetery.

15 5. A pet cemetery, owned and operated by a not-for-profit
16 corporation that has in excess of one million dollars in its
17 endowment care or similar trust fund, may use any surplus
18 income in the trust fund above and beyond its costs for pet
19 cemetery operation and maintenance in any manner allowed by
20 the not-for-profit corporation's articles or bylaws, provided
21 that the use of such surplus does not endanger the integrity
22 of the trust fund.

23 6. A pet cemetery, owned and operated by a not-for-profit
24 corporation that is a humane society, may be granted a waiver
25 of the provisions of this section by the commissioner if the
26 commissioner determines that the interests of the pet owners
27 will be adequately protected and the provisions of this
28 section present a significant financial hardship to the owner.

29 7. Such trust funds are not invalid by reason of any
30 indefiniteness or uncertainty of the persons designated as
31 beneficiaries, and such trust funds shall not be invalid as
32 violating any existing rule against perpetuities.

33 Sec. 16. NEW SECTION. 566B.16 PET DISPOSAL FORMS.

34 1. Each person who gives a veterinarian, a pet cemetery
35 owner, or pet crematorium owner a pet for disposal shall be

1 provided by the veterinarian, pet cemetery owner, or pet
2 crematorium owner with a pet disposal disclosure document, in
3 a form approved by the commissioner, which shall set forth the
4 alternative methods of pet disposal, the cost of each method
5 of pet disposal, if available, and the nature of or place in
6 which each method of disposal will be carried out. The
7 veterinarian, pet cemetery owner, or pet crematorium owner, as
8 the case may be, shall give to the person who completes the
9 form a copy of the form and retain a copy of the completed
10 form. If the person completing the form chooses to have the
11 pet disposed of by a pet cemetery or pet crematorium and makes
12 the arrangements for disposal through a veterinarian, the
13 veterinarian shall provide the person with the name, location,
14 and telephone number of the pet cemetery or pet crematorium so
15 that the person may obtain information about the pet cemetery
16 or pet crematorium. The veterinarian shall also ensure that a
17 copy of the pet disposal form accompanies the deceased pet
18 when the deceased pet is removed from the veterinarian's
19 office.

20 2. A veterinarian or pet cemetery operator may complete a
21 pet disposal form with the oral consent of the pet owner.
22 Such oral consent shall be witnessed and a record of such
23 consent and the completed pet disposal form shall be retained
24 in the veterinarian's or pet cemetery's records. A copy of
25 such completed pet disposal form shall be sent to the pet
26 owner.

27 3. If a pet owner is unwilling or unable to complete a pet
28 disposal form, a veterinarian may complete the pet disposal
29 form if two attempts are made to contact the pet owner. At
30 least one such attempt shall be made in writing and sent by
31 first-class mail. If the veterinarian completes the pet
32 disposal form without the consent of the pet owner, a copy of
33 the completed pet disposal form shall be retained by the
34 veterinarian along with the records of the attempts to contact
35 the pet owner.

1 4. A pet disposal form shall not be required if any of the
2 following apply:

- 3 a. The pet owner cannot be identified.
- 4 b. The pet remains originate with a municipality.
- 5 c. The pet is abandoned pursuant to section 162.19.
- 6 d. The pet is to be disposed of without charge to the pet
7 owner.

8 Sec. 17. NEW SECTION. 566B.17 DISPOSAL -- COMPLIANCE.

9 A pet cemetery owner shall dispose of a pet in compliance
10 with a pet disposal form completed by a pet owner or
11 veterinarian. The pet cemetery owner shall, within ten days
12 of disposal by individual cremation or individual burial, send
13 or give a written confirmation of such disposal to the pet
14 owner or veterinarian, depending on instructions in the pet
15 disposal form, and shall attest to the method, date, and place
16 of disposal. If a pet is disposed of either through mass
17 cremation or mass burial, no written confirmation shall be
18 required. Copies of all forms shall be retained by the pet
19 cemetery owner and by the veterinarian for a period of two
20 years after disposal. All pet remains shall be buried at
21 least twelve inches below the surface of the ground, or in
22 accordance with section 167.12 in the case of a large domestic
23 animal, or otherwise disposed of in a sanitary manner.

24 Sec. 18. NEW SECTION. 566B.18 EXCLUSIONS.

25 The following pet cemeteries shall be exempt from the trust
26 fund provisions of section 566B.15, the dedication provisions
27 of section 566B.11, and the area requirement of section
28 566B.13:

- 29 1. A pet cemetery owned by a licensed veterinarian.
- 30 2. A pet cemetery located on land used in agricultural
31 production.
- 32 3. A pet cemetery that does not allow individual burials.
- 33 4. A pet cemetery that does not allow individual grave
34 markers.
- 35 5. A pet cemetery that does not charge a maintenance fee

1 for the care of pet graves.

2 6. A pet cemetery that does not make any representation
3 that pet graves will be cared for or that the land is
4 dedicated.

5 7. A pet cemetery that buries less than five animals a
6 year, makes no representation that the pet graves will be
7 cared for or that the land is dedicated, and does not charge a
8 maintenance fee for the care of the pet graves.

9 Sec. 19. NEW SECTION. 566B.19 DUTIES.

10 All owners and operators of pet cemeteries shall have the
11 following duties:

12 1. To keep permanently maps and records containing the
13 specific site of each pet grave, the grave owner's last known
14 address, the date of burial, the size of such grave, the
15 contract for sale of such grave, and pet disposal forms.

16 2. To keep complete records of the names of trustees of
17 any trust accounts and complete records of all trust fund
18 moneys.

19 3. To clearly inform customers of the option of paying
20 maintenance fees for care of pet graves, including costs and
21 benefits for permanent care for pet graves and annual care for
22 pet graves.

23 4. To cooperate with all reasonable requests of inspectors
24 appointed by the commissioner to inspect pet cemeteries and
25 pet crematoriums.

26 5. To provide notice to customers about hours that the
27 cemetery will be open to visitors to view pet graves.

28 The provisions of this section shall apply only to
29 individual burials.

30 Sec. 20. Section 167.1, Code 2003, is amended to read as
31 follows:

32 167.1 SCOPE.

33 This chapter shall not apply to licensed slaughterhouses,
34 or to the disposal, by licensed the following:

35 1. Licensed slaughterhouses, of the bodies of animals, or

1 any part thereof, slaughtered for human food.
2 2. The disposal of the remains of pets pursuant to chapter
3 566B.

4 EXPLANATION

5 This bill makes legislative findings regarding the
6 importance of the relationship of pets to humans, and the
7 protection of the pet owner from unconscionable acts on the
8 part of persons in the business of providing for the disposal
9 of the remains of deceased pets.

10 The bill provides definitions to be used in new Code
11 chapter 566B. The definitions include terms related to the
12 business of disposal of pet remains, such as "entombment",
13 which means the placement of a pet in a grave or tomb;
14 "inurnment", meaning the placement of pet cremains in a grave,
15 urn, or tomb; and general terms, such as "pet", meaning any
16 domestic animal that had been adapted or tamed to live in
17 intimate association with people, including, but not limited
18 to, dogs, cats, rodents, fish, birds, snakes, turtles,
19 lizards, frogs, and rabbits; and "pet cemetery", meaning any
20 land, place, structure, facility, or building provided by any
21 person for a fee, whether or not for profit, to veterinarians
22 or members of the general public for use for the permanent
23 interment or inurnment of pet remains. The businesses
24 regulated by Code chapter 566B are under the authority of the
25 commissioner of insurance.

26 The bill provides in new Code section 566B.3 that a license
27 shall be required for a person to engage for a fee in the
28 business of operating a pet cemetery or pet crematorium.

29 New Code section 566B.4 grants to the commissioner
30 authority to adopt rules, create forms, investigate applicants
31 for licensure, keep records of licenses issued, suspended, or
32 revoked, provide standards and an enforcement process for
33 operation of a facility, conduct inspections of premises and
34 financial audits of pet cemeteries and pet crematoriums,
35 subpoena records for an action taken pursuant to the chapter,

1 and provide procedures to protect consumers when a license to
2 operate a facility is suspended, revoked, or not renewed.

3 New Code section 566B.5 provides requirements for
4 application for licensure to conduct the business of operating
5 a pet cemetery or pet crematorium. New Code section 566B.6
6 provides for the term, the transferability, and the renewal of
7 licenses, and for a duplicate license in case of loss or
8 destruction. A licensee is also required to notify the
9 commissioner within 30 days of any change in address of the
10 place of business or the residence of a licensee.

11 New Code section 566B.7 requires a fee of \$150 for a new
12 license or the renewal of a license, and provides for a fee of
13 \$25 for a duplicate license, and \$10 for change of name or
14 address. A municipality seeking a license to operate a pet
15 cemetery or pet crematorium shall not be charged any fees.
16 The moneys derived from the fees are appropriated to the
17 commissioner for the expenses of administration, licensing,
18 and inspections conducted pursuant to the Code chapter.

19 New Code section 566B.8 provides circumstances that allow
20 the commissioner to deny a license application, and
21 circumstances under which a license can be suspended or
22 revoked. The prohibited circumstances include fraud or
23 bribery in securing a license, making any false statement of
24 material fact in the application or any certificate required
25 by the chapter, incompetence, failure to display the license,
26 violation of the provisions of the chapter, conviction of a
27 crime involving fraud, theft, perjury, or bribery, failure to
28 retain pet disposal forms, failure to comply with the duties
29 of an owner or operator of a pet cemetery or pet crematorium
30 as set out in the chapter, or conviction of a violation of
31 Code chapter 717B regarding injury to animals. A licensee
32 whose license has been revoked may not be reinstated for five
33 years from the date of revocation, and must reapply for a
34 license under Code section 566B.5.

35 New Code section 566B.9 requires that any license

1 suspension or revocation, or the imposition of any fine or
2 reprimand, shall not be imposed until after a hearing, and all
3 actions initiated by the commissioner are subject to contested
4 case proceedings and further review pursuant to Code chapter
5 17A.

6 New Code section 566B.10 provides penalties for violations
7 by a licensee, including an order to cease and desist. The
8 commissioner shall notify the attorney general if a
9 receivership is required because a licensee is insolvent or
10 has utilized trust funds for personal or business purposes
11 inconsistent with the requirements of the chapter. The
12 commissioner or the attorney general may seek an injunction to
13 restrain a licensee from engaging in conduct or practices
14 deemed a violation of the chapter or rules adopted pursuant to
15 the chapter. A licensee who persists in the violation after
16 notice to cease and desist, or after a license is suspended or
17 revoked, shall upon conviction for a first offense be guilty
18 of a serious misdemeanor. If the conviction is for a
19 subsequent offense, the person shall be guilty of an
20 aggravated misdemeanor. A serious misdemeanor is punishable
21 by confinement for no more than one year and a fine of at
22 least \$250 but not more than \$1,500. An aggravated
23 misdemeanor is punishable by confinement for no more than two
24 years and a fine of at least \$500 but not more than \$5,000.

25 New Code section 566B.11 provides for the dedication of
26 real property for pet cemetery purposes, by the filing by the
27 owner of any real property of a dedication restricting the
28 real property to use only as a pet cemetery. The owner of any
29 such pet cemetery shall keep adequate records of purchasers of
30 space for pet remains within the pet cemetery.

31 New Code section 566B.12 provides for the removal of the
32 dedication of real property as a pet cemetery by order of the
33 district court. The petition for a removal of dedication
34 shall contain written consent of all persons who purchased or
35 are otherwise entitled to rights of disposal or rights of

1 continuing care of a pet grave. If consent cannot be
2 obtained, upon proof of diligent effort, the court may
3 dispense with the consent and require appropriate
4 consideration be deposited with the court, to be paid to the
5 person whose consent was dispensed with, the personal heirs,
6 or assigns, upon the appropriate proof of claim. The petition
7 may also require an environmental audit, if required by the
8 court, including a plan for the correction or remediation of
9 any environmental problem found, financial, human, and other
10 resource estimates, and projected time schedules for
11 completion of the corrective and remedial actions. The court
12 shall make any order on the petition conditional upon the
13 completion of any corrective and remedial action or upon the
14 deposit with the court of an amount of money determined
15 necessary for completion.

16 New Code section 566B.13 requires at least five contiguous
17 acres of real property, inclusive of structures, for a pet
18 cemetery, and provides that the commissioner may grant a
19 waiver of the minimum size limit. A city or municipality may
20 adopt an ordinance requiring more than five acres of
21 contiguous real property for the operation of a pet cemetery.

22 New Code section 566B.14 provides that maintenance fees for
23 the pet cemetery may be charged as permanent maintenance
24 endowment fees or as annual maintenance fees. A pet cemetery
25 owner must establish a trust account for the permanent
26 maintenance endowment fees. Annual fees must be billed each
27 calendar year, and upon receipt may be placed in the general
28 account of the business and used for operation and maintenance
29 costs, including salaries. If annual maintenance fees are not
30 paid within 180 days, the disposal rights of a pet owner
31 terminate, and the pet cemetery owner may remove and dispose
32 of the remains by mass cremation or mass burial. Pet owners
33 may prepay annual maintenance fees, and the prepaid fees shall
34 be deposited in the trust fund and withdrawn upon an annual
35 basis, and a statement sent to the pet owner reflecting the

1 withdrawal of the annual amount and the balance of prepaid
2 annual maintenance fees remaining. The owner shall maintain
3 individual records of account for each maintenance fee
4 contract.

5 New Code section 566B.15 provides requirements for an
6 endowment fund for each pet cemetery, in the amount of
7 \$12,000. Pet cemeteries currently in existence shall
8 establish trust accounts by January 1, 2004, or be granted a
9 waiver by the commissioner, which may extend up to 10 years
10 from the effective date of this bill. New licensees shall
11 establish the trust account prior to accepting any permanent
12 maintenance endowment fees or annual maintenance fees. The
13 trust fund moneys may be invested as set forth in Code chapter
14 633, with the interest earnings to be used for the maintenance
15 of both occupied and unoccupied lots or spaces, and any
16 remaining interest to be used for costs of access roads,
17 paths, fencing, and general maintenance. Any distribution of
18 the original \$12,000 principal shall only occur by order of
19 court, for good cause, and exclusively for the operation and
20 benefit of the pet cemetery. A pet cemetery owned by a not-
21 for-profit corporation may distribute surplus income over \$1
22 million in any manner allowed in the not-for-profit
23 corporation's articles or bylaws, if the use of the surplus
24 does not endanger the integrity of the trust fund. The
25 commissioner may waive these provisions for a not-for-profit
26 corporation that is a humane society if the commissioner
27 determines that the interests of the pet owners will be
28 adequately protected and the requirements would present a
29 significant hardship to the not-for-profit corporation.

30 New Code section 566B.16 requires that a pet disposal form
31 be completed for every deceased pet, which sets out the
32 alternative methods of pet disposal, the costs of each, and
33 the nature of or place each method will be carried out. The
34 form may be completed by a veterinarian or the owner of the
35 deceased pet. Provisions are made by which a veterinarian may

1 complete a form if a pet's owner is unknown, or if the pet
2 owner refuses to complete a form.

3 New Code section 566B.17 provides that disposal of pets
4 shall be in compliance with the pet disposal forms, and that,
5 within 10 days of disposal, a licensee shall give written
6 confirmation of the disposal to the pet owner or veterinarian,
7 attesting to the method, date, and place of disposal. Copies
8 of the forms shall be retained by the licensee and the
9 veterinarian for two years after the disposal. All pet
10 remains shall be buried at least 12 inches below the surface
11 of the ground or in accordance with Code section 167.12 in the
12 case of a large domestic animal.

13 New Code section 566B.18 provides exclusions from the trust
14 fund requirements for pet cemeteries that are owned by a
15 licensed veterinarian, located on ground used in agricultural
16 production, do not allow individual burials, do not allow
17 individual grave markers, do not charge a maintenance fee for
18 the care of pet graves, do not make any representations that
19 pet graves will be cared for or that the land is dedicated,
20 and bury less than five animals a year and make no
21 representations that pet graves will be cared for or that the
22 land is dedicated, and do not charge a maintenance fee.

23 New Code section 566B.19 provides that owners and operators
24 of pet cemeteries must keep maps and records of specific sites
25 of each pet grave, the grave owner's last known address, the
26 date of the burial, the size of the grave, the contract for
27 sale of the grave and the pet disposal forms, and complete
28 records of trust accounts. A pet cemetery owner must also
29 clearly inform customers of the option of paying maintenance
30 fees for care of pet graves, including costs and benefits for
31 permanent endowment and annual care maintenance, and provide
32 customers with the hours of business the cemetery will be open
33 to visitors to view pet graves. The section also requires
34 cooperation by the pet cemetery or pet crematorium owners with
35 all reasonable requests of inspectors.

1 Finally, the bill amends Code section 167.1 to add the
2 disposal of the remains of pets pursuant to Code chapter 566B
3 to the exclusion from the provisions of Code chapter 167, the
4 use and disposal of dead animals.

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