

HOUSE BILL No. 6037

(As amended December 3, 2008)

May 1, 2008, Introduced by Reps. Condino, Sak, Farrah, Virgil Smith, Shaffer, Wojno, Hammon, Knollenberg, Accavitti, Amos, Pavlov, Green, Meadows, Dean and Cushingberry and referred to the Committee on Regulatory Reform.

A bill to amend 1931 PA 328, entitled "The Michigan penal code," (MCL 750.1 to 750.568) by adding section 180a.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 SEC. 180A. (1) SUBJECT TO SUBSECTION (2), A PERSON SHALL NOT
2 VIOLATE, OR CONSPIRE WITH 1 OR MORE PERSONS TO VIOLATE, SECTION 16,
3 16A, OR 16B OF THE CEMETERY REGULATION ACT, 1968 PA 251, MCL
4 456.536, 456.536A, AND 456.536B, OR SECTION 12 OF THE PREPAID
5 FUNERAL AND CEMETERY SALES ACT, 1986 PA 255, MCL 328.222. A PERSON
6 WHO VIOLATES THIS SUBSECTION IS GUILTY OF A CRIME AS FOLLOWS:

7 (A) FOR A FIRST VIOLATION, THE PERSON IS GUILTY OF A
8 MISDEMEANOR PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN [93] DAYS OR
9 A FINE OF NOT MORE THAN \$10,000.00 OR UP TO TRIPLE THE AMOUNT OF
10 THE LOSS, THEFT, OR EMBEZZLEMENT, WHICHEVER IS LARGER, OR BOTH. THE

1 COURT MAY ALSO ORDER RESTITUTION.

2 (B) FOR A SECOND OR SUBSEQUENT VIOLATION, THE PERSON IS GUILTY
3 OF A FELONY PUNISHABLE BY IMPRISONMENT FOR NOT MORE THAN 10 YEARS
4 OR A FINE OF NOT MORE THAN \$50,000.00 OR UP TO TRIPLE THE AMOUNT OF
5 THE LOSS, THEFT, OR EMBEZZLEMENT, WHICHEVER IS LARGER, OR BOTH. THE
6 COURT MAY ALSO ORDER RESTITUTION.

7 (2) THIS SECTION DOES NOT PROHIBIT A PERSON FROM BEING CHARGED
8 AND CONVICTED OF ANY OTHER VIOLATION COMMITTED BY THAT PERSON
9 DURING THE COURSE OF THE VIOLATION OF SUBSECTION (1).

10 (3) AS USED IN THIS SECTION:

11 (A) "CEMETERY ENTITY" MEANS A CORPORATION, LIMITED LIABILITY
12 COMPANY, OR OTHER LEGAL ENTITY THAT OWNS, MANAGES, OR OPERATES A
13 CEMETERY AND INCLUDES AN INDIVIDUAL WHO OWNS, MANAGES, OR OPERATES
14 A CEMETERY.

15 (B) "CONTROLLING INTEREST" MEANS THE CAPABILITY TO DECIDE THE
16 OPERATING AND FINANCIAL POLICIES OF A CEMETERY ENTITY OR TO SELECT
17 THE OFFICERS OR DIRECTORS WITH MAJORITY CONTROL OF THE CEMETERY
18 ENTITY.

19 (C) "PERSON" MEANS AN INDIVIDUAL, GROUP OF INDIVIDUALS, SOLE
20 PROPRIETORSHIP, PARTNERSHIP, LIMITED LIABILITY COMPANY,
21 ASSOCIATION, CORPORATION, CEMETERY, CEMETERY ENTITY, OR ANY
22 COMBINATION OF THOSE LEGAL ENTITIES. PERSON INCLUDES AN INDIVIDUAL
23 WHO IS AN OFFICER, DIRECTOR, OR MEMBER, ENGAGED IN A MANAGEMENT
24 ROLE, OR WHO HAS A CONTROLLING INTEREST IN A CEMETERY OR CEMETERY
25 ENTITY.

26 Enacting section 1. This amendatory act does not take effect
27 unless Senate Bill No. ____ or House Bill No. 6033(request no.

1 03313'07 **) of the 94th Legislature is enacted into law.