

1 **23.** Page 957, line 21: delete the material beginning with that line and ending
2 with page 958, line 19, and substitute:

3 “**SECTION 2852w.** 157.635 of the statutes is amended to read:

4 **157.635 Regulations of religious cemetery ~~affiliated with religious~~**
5 **society authorities.** Nothing in this subchapter prohibits a religious cemetery
6 authority of a cemetery that is ~~affiliated with a religious society organized under ch.~~
7 ~~187~~ from prohibiting the burial of the human remains of an individual in the
8 cemetery if the individual was in a class of individuals who are prohibited from being
9 buried in the cemetery under regulations adopted by the religious cemetery
10 authority or church, synagogue, mosque, incorporated college of a religious order, or
11 religious society from being buried in the cemetery that is affiliated with the religious
12 cemetery authority.”

13 **24.** Page 958, line 19: after that line insert:

14 “**SECTION 2852yb.** 157.637 of the statutes is created to read:

15 **157.637 Rules; review of rules.** (1) Before submitting to the legislative
16 council staff under s. 227.15 any proposed rules relating to cemeteries or to the board,
17 except for rules relating exclusively to religious cemetery authorities, the
18 department shall submit the proposed rules to the board for comment. The board
19 shall have 30 days to submit comments on the proposed rules to the secretary of
20 regulation and licensing.

21 (2) When promulgating emergency rules under s. 227.24 relating to cemeteries
22 or to the board, except for rules relating exclusively to religious cemetery authorities,
23 the department shall provide a copy of the rules to the board prior to publication of
24 the rules in the official state newspaper.

1 (3) The chairperson of the board, or his or her designee from the board, may
2 cochair with the secretary of regulation and licensing, or the secretary's designee,
3 any public hearing held by the department on proposed rules relating to cemeteries
4 or to the board other than rules relating exclusively to religious cemetery authorities.

5 (4) The department shall submit to the board a copy of the report required
6 under s. 227.19 (2) on any proposed final rules relating to cemeteries or to the board
7 other than rules relating exclusively to religious cemetery authorities. The board
8 may prepare a dissenting report stating its recommendations on the proposed final
9 rules. Any dissenting report shall be prepared within 10 days from the date of receipt
10 of the department's report, attached to the department's report and sent to the
11 presiding officer of each house of the legislature and distributed under s. 227.19 (2).
12 The department shall publish a statement to appear in the Wisconsin administrative
13 register indicating that a dissenting report of the board has been submitted to the
14 presiding officer of each house of the legislature.

15 (5) The department shall provide staff to assist the board in the review of
16 administrative rules and preparation of comments or dissenting reports.

17 **SECTION 2852yc.** 157.64 (2) (d) of the statutes is amended to read:

18 157.64 (2) (d) Fails to file a report or files an incomplete, false, or misleading
19 report under s. 157.62 ~~(1)~~ or (2).

20 **SECTION 2852yh.** 157.64 (2) (e) of the statutes is amended to read:

21 157.64 (2) (e) Fails to maintain records as required in s. 157.62 (3) and (4) (a).

22 **SECTION 2852yL.** 157.64 (2) (h) of the statutes is created to read:

23 157.64 (2) (h) Violates s. 157.112.

24 **SECTION 2852yo.** 157.65 (1) (a) of the statutes is amended to read:

1 157.65 (1) (a) If the ~~department of regulation and licensing~~ board has reason
2 to believe that any person, other than a religious cemetery authority, is violating or
3 has violated this subchapter or any rule promulgated under this subchapter and that
4 the continuation of that activity might cause injury to the public interest, the
5 ~~department of regulation and licensing may~~ board shall investigate.

6 **SECTION 2852yr.** 157.65 (1) (am) of the statutes is created to read:

7 157.65 (1) (am) If the department of regulation and licensing has reason to
8 believe that a religious cemetery authority is violating or has violated this
9 subchapter or any rule promulgated under this subchapter and that the continuation
10 of that activity might cause injury to the public interest, the department of
11 regulation and licensing may investigate.

12 **SECTION 2852yu.** 157.65 (1) (b) of the statutes is amended to read:

13 157.65 (1) (b) If the department of commerce has reason to believe that any
14 person is violating s. 157.12 or any rule promulgated under s. 157.12 and that the
15 continuation of that activity might cause injury to the public interest, the
16 department of commerce ~~may~~ shall investigate.

17 **SECTION 2852yy.** 157.65 (2) of the statutes is amended to read:

18 157.65 (2) The department of justice or any district attorney, upon informing
19 the department of justice, may commence an action in circuit court in the name of
20 the state to restrain by temporary or permanent injunction any violation of this
21 subchapter. The court may, prior to entry of final judgment, make such orders or
22 judgments as may be necessary to restore to any person any pecuniary loss suffered
23 because of the acts or practices involved in the action, if proof of such loss is submitted
24 to the satisfaction of the court. The department of justice may subpoena persons and
25 require the production of books and other documents, and may request the board, the

1 department of regulation and licensing, or the department of commerce to exercise
2 its authority under sub. (1) to aid in the investigation of alleged violations of this
3 subchapter.”.

4 **25.** Page 1143, line 6: after that line insert:

5 “**SECTION 3492m.** 423.102 of the statutes is amended to read:

6 **423.102 Scope.** This chapter applies to all consumer transactions, except that
7 subch. II does not apply to cemetery preneed sales under s. ss. 440.92 and 440.922.”.

8 **26.** Page 1145, line 10: after that line insert:

9 “**SECTION 3504b.** 440.03 (1) of the statutes is amended to read:

10 440.03 (1) The department may promulgate rules defining uniform procedures
11 to be used by the department, the cemetery board, the real estate board, the real
12 estate appraisers board, and all examining boards and affiliated credentialing
13 boards attached to the department or an examining board, for receiving, filing, and
14 investigating complaints, for commencing disciplinary proceedings and for
15 conducting hearings.

16 **SECTION 3504d.** 440.03 (3) of the statutes is amended to read:

17 440.03 (3) If the secretary reorganizes the department, no modification may
18 be made in the powers and responsibilities of the examining boards ~~or~~, affiliated
19 credentialing boards, or other boards attached to the department or an examining
20 board under s. 15.03, 15.405, or 15.406.

21 **SECTION 3504f.** 440.03 (7m) of the statutes is amended to read:

22 440.03 (7m) The department may promulgate rules that establish procedures
23 for submitting an application for a credential or credential renewal by electronic
24 transmission. Any rules promulgated under this subsection shall specify procedures

1 for complying with any requirement that a fee be submitted with the application.
2 The rules may also waive any requirement in chs. 440 to 480 that an application
3 submitted to the department, an examining board or an affiliated credentialing
4 board be executed, verified, certified, signed, sworn, or made under oath,
5 notwithstanding ss. 440.26 (2) (b), 440.42 (2) (intro.), 440.91 (2) (intro.), 443.06 (1)
6 (a), 443.10 (2) (a), 445.04 (2), 445.08 (4), 445.095 (1) (a), 448.05 (7), 450.09 (1) (a),
7 452.10 (1), and 480.08 (2m).

8 **SECTION 3504h.** 440.03 (13) of the statutes is renumbered 440.03 (13) (a) and
9 amended to read:

10 440.03 (13) (a) The Except as provided in par. (b), the department may conduct
11 an investigation to determine whether an applicant for a credential issued under chs.
12 440 to 480 satisfies any of the eligibility requirements specified for the credential,
13 including whether the applicant does not have an arrest or conviction record.

14 (c) In conducting an investigation under ~~this subsection~~ par. (a) or (b), the
15 department may require an applicant to provide any information that is necessary
16 for the investigation or, for the purpose of obtaining information related to an arrest
17 or conviction record of an applicant, to complete forms provided by the department
18 of justice or the federal bureau of investigation. The department shall charge the
19 applicant any fees, costs, or other expenses incurred in conducting the investigation
20 under ~~this subsection~~ par. (a) or (b).

21 **SECTION 3504k.** 440.03 (13) (b) of the statutes is created to read:

22 440.03 (13) (b) Before granting a credential to a cemetery authority, cemetery
23 salesperson, or preneed seller, or renewing such a credential, the department shall
24 conduct an investigation to determine whether a person specified in s. 440.93 (1)
25 (intro.) has been convicted of an offense specified in s. 440.93 (1) (d).”.

1 **27.** Page 1145, line 15: after that line insert:

2 “**SECTION 3404q.** 440.04 (1) of the statutes is amended to read:

3 440.04 (1) Centralize, at the capital and in such district offices as the
4 operations of the department and the attached boards, examining boards, and
5 affiliated credentialing boards require, the routine housekeeping functions required
6 by the department, the boards, the examining boards, and the affiliated
7 credentialing boards.

8 **SECTION 3404r.** 440.04 (2) of the statutes is amended to read:

9 440.04 (2) Provide the bookkeeping, payroll, accounting, and personnel
10 advisory services required by the department and the legal services, except for
11 representation in court proceedings and the preparation of formal legal opinions,
12 required by the attached boards, examining boards, and affiliated credentialing
13 boards.

14 **SECTION 3404s.** 440.04 (3) of the statutes is amended to read:

15 440.04 (3) Control the allocation, disbursement, and budgeting of the funds
16 received by the boards, examining boards, and affiliated credentialing boards in
17 connection with their credentialing ~~and~~, regulation, or other functions.

18 **SECTION 3404t.** 440.04 (4) of the statutes is amended to read:

19 440.04 (4) Employ, assign, and reassign such staff as are required by the
20 department and the attached boards, examining boards, and affiliated credentialing
21 boards in the performance of their functions.

22 **SECTION 3404u.** 440.04 (5) (intro.) of the statutes is amended to read:

23 440.04 (5) (intro.) With the advice of the boards, examining boards, or affiliated
24 credentialing boards:

1 **SECTION 3404v.** 440.04 (5) (c) of the statutes is amended to read:

2 440.04 (5) (c) Provide such other services as the boards, examining boards, or
3 affiliated credentialing boards request.

4 **SECTION 3404w.** 440.045 of the statutes is amended to read:

5 **440.045 Disputes.** Any dispute between a board in the department, an
6 examining board, or an affiliated credentialing board and the secretary shall be
7 arbitrated by the governor or the governor's designee after consultation with the
8 disputants.

9 **SECTION 3404x.** 440.05 (intro.) of the statutes is amended to read:

10 **440.05 Standard fees.** (intro.) The following standard fees apply to all initial
11 credentials, except as provided in ss. 440.42, 440.43, 440.44, 440.51, 440.91 (1m) (a),
12 442.06, 444.03, 444.05, 444.11, 447.04 (2) (c) 2., 449.17, 449.18, and 459.46.”

13 **28.** Page 1148, line 25: after that line insert:

14 “**SECTION 3529b.** 440.08 (2) (a) 21. of the statutes is amended to read:

15 440.08 (2) (a) 21. Cemetery authority, licensed: January 1 of each
16 odd-numbered year; \$343.

17 **SECTION 3529c.** 440.08 (2) (a) 21m. of the statutes is created to read:

18 440.08 (2) (a) 21m. Cemetery authority, registered: January 1 of each
19 odd-numbered year; \$5.”

20 **29.** Page 1156, line 6: after that line insert:

21 “**SECTION 3592d.** 440.13 (2) (d) of the statutes is created to read:

22 440.13 (2) (d) With respect to a credential granted by the department under
23 subch. VIII of ch. 440, the cemetery board shall restrict, limit, or suspend the
24 credential when directed to do so by the department.

1 **SECTION 3592h.** 440.14 (1) (a) of the statutes is amended to read:

2 440.14 (1) (a) “List” means information compiled or maintained by the
3 department ~~or~~, a credentialing board, or another board in the department that
4 contains the personal identifiers of 10 or more individuals.

5 **SECTION 3592p.** 440.14 (2) of the statutes is amended to read:

6 440.14 (2) If a form that the department ~~or~~, a credentialing board, or another
7 board in the department requires an individual to complete in order to apply for a
8 credential or credential renewal or to obtain a product or service from the
9 department ~~or the~~, credentialing board, or other board requires the individual to
10 provide any of the individual’s personal identifiers, the form shall include a place for
11 the individual to declare that the individual’s personal identifiers obtained by the
12 department ~~or the~~, credentialing board, or other board from the information on the
13 form may not be disclosed on any list that the department ~~or the~~, credentialing board,
14 or other board furnishes to another person.

15 **SECTION 3592pb.** 440.14 (3) of the statutes is amended to read:

16 440.14 (3) If the department ~~or~~, a credentialing board, or another board in the
17 department requires an individual to provide, by telephone or other electronic
18 means, any of the individual’s personal identifiers in order to apply for a credential
19 or credential renewal or to obtain a product or service from the department ~~or a~~,
20 credentialing board, or other board, the department ~~or the~~, credentialing board, or
21 other board shall ask the individual at the time that the individual provides the
22 information if the individual wants to declare that the individual’s personal
23 identifiers obtained by telephone or other electronic means may not be disclosed on
24 any list that the department ~~or the~~, credentialing board, or other board furnishes to
25 another person.

1 **SECTION 3592pd.** 440.14 (4) of the statutes is amended to read:

2 440.14 (4) The department ~~or~~, a credentialing board, or another board in the
3 department shall provide to an individual upon request a form that includes a place
4 for the individual to declare that the individual's personal identifiers obtained by the
5 department ~~or~~, credentialing board, or other board may not be disclosed on any list
6 that the department ~~or~~, credentialing board, or other board furnishes to another
7 person.

8 **SECTION 3592pf.** 440.14 (5) of the statutes is amended to read:

9 440.14 (5) (a) The department ~~or~~, a credentialing board, or another board in the
10 department may not disclose on any list that it furnishes to another person a
11 personal identifier of any individual who has made a declaration under sub. (2), (3),
12 or (4).

13 (b) Paragraph (a) does not apply to a list that the department ~~or~~, a credentialing
14 board, or another board in the department furnishes to another state agency, a law
15 enforcement agency, or a federal governmental agency. A state agency that receives
16 a list from the department ~~or~~, a credentialing board, or another board in the
17 department containing a personal identifier of any individual who has made a
18 declaration under sub. (2), (3), or (4) may not disclose the personal identifier to any
19 person other than a state agency, a law enforcement agency, or a federal
20 governmental agency.

21 **SECTION 3592t.** 440.22 (1) of the statutes is amended to read:

22 **440.22 Assessment of costs.** (1) In this section, "costs of the proceeding"
23 means the compensation and reasonable expenses of hearing examiners and of
24 prosecuting attorneys for the department, examining board ~~or~~, affiliated
25 credentialing board, or other board in the department, a reasonable disbursement

1 for the service of process or other papers, amounts actually paid out for certified
2 copies of records in any public office, postage, telephoning, adverse examinations and
3 depositions and copies, expert witness fees, witness fees and expenses, compensation
4 and reasonable expenses of experts and investigators, and compensation and
5 expenses of a reporter for recording and transcribing testimony.

6 **SECTION 3605gb.** 440.90 (1) of the statutes is renumbered 440.90 (1d).

7 **SECTION 3605gd.** 440.90 (1b) of the statutes is created to read:

8 440.90 (1b) “Board” means the cemetery board.

9 **SECTION 3605gf.** 440.90 (1c) of the statutes is created to read:

10 440.90 (1c) “Burial space” has the meaning given in s. 157.061 (1d).

11 **SECTION 3605gh.** 440.90 (1g) of the statutes is created to read:

12 440.90 (1g) “Business entity” has the meaning given in s. 452.01 (3j).

13 **SECTION 3605gj.** 440.90 (1r) of the statutes is created to read:

14 440.90 (1r) “Business representative” has the meaning given in s. 452.01 (3k).

15 **SECTION 3605gL.** 440.90 (3g) of the statutes is created to read:

16 440.90 (3g) “Columbarium” has the meaning given in s. 157.061 (3g).

17 **SECTION 3605gn.** 440.90 (3r) of the statutes is created to read:

18 440.90 (3r) “Columbarium space” has the meaning given in s. 157.061 (3r).

19 **SECTION 3605gp.** 440.90 (4e) of the statutes is created to read:

20 440.90 (4e) “Lawn crypt” has the meaning given in s. 157.061 (8g).

21 **SECTION 3605gr.** 440.90 (4m) of the statutes is created to read:

22 440.90 (4m) “Licensed cemetery authority” means a cemetery authority that
23 is licensed under s. 440.91 (1).

24 **SECTION 3605gt.** 440.90 (4r) of the statutes is created to read:

25 440.90 (4r) “Licensee” means a person licensed under this subchapter.

1 **SECTION 3605gv.** 440.90 (10m) of the statutes is created to read:

2 440.90 (10m) “Registrant” means a person registered under this subchapter.

3 **SECTION 3605gx.** 440.90 (10r) of the statutes is created to read:

4 440.90 (10r) “Religious cemetery authority” has the meaning given in s.
5 157.061 (15m).

6 **SECTION 3605gz.** 440.90 (14) of the statutes is repealed.

7 **SECTION 3605ib.** 440.91 (1) of the statutes is renumbered 440.91 (1) (a) and
8 amended to read:

9 440.91 (1) (a) Except as provided in sub. (6m), every cemetery authority that
10 operates a cemetery that is 5 acres or more in size, that sells or solicits the sale of a
11 total of 10 20 or more cemetery lots or mausoleum burial spaces at a cemetery during
12 a calendar year and that pays any commission or other compensation to any person
13 for selling or soliciting the sale of its cemetery lots or mausoleum spaces shall register
14 with, or that has \$100,000 or more in trust fund accounts for a cemetery shall apply
15 to the department. The registration shall be in writing and shall include the names
16 of the officers of the cemetery authority for a license for that cemetery. A cemetery
17 authority that operates more than one cemetery shall apply for a separate license for
18 each cemetery that is 5 acres or more in size and for each cemetery, at which it sells
19 20 or more burial spaces or at which it has \$100,000 or more in trust fund accounts.

20 **SECTION 3605id.** 440.91 (1) (b) of the statutes is created to read:

21 440.91 (1) (b) Except as provided in s. 440.93 (1), the department shall grant
22 a license to a cemetery authority if all of the following are satisfied:

23 1. The cemetery authority submits an application for the license to the
24 department on a form provided by the department. The application shall require the
25 cemetery authority to provide the names of the officers of the cemetery authority and

1 to identify a business representative who is primarily responsible for the cemetery
2 authority's compliance with subch. II of ch. 157 and this subchapter.

3 2. The cemetery authority pays the fee specified in s. 440.05 (1) and any fees,
4 costs, or expenses charged by the department under s. 440.03 (13) (c).

5 **SECTION 3605idc.** 440.91 (1) (c) of the statutes is created to read:

6 440.91 (1) (c) A licensed cemetery authority shall notify the department if it
7 designates a substitute business representative to take the place of a business
8 representative identified under par. (b) 1.

9 **SECTION 3605idf.** 440.91 (1) (d) of the statutes is created to read:

10 440.91 (1) (d) If a licensed cemetery authority notifies the department under
11 s. 157.08 (2) (b) 1. (intro.) that it proposes to take an action specified in s. 157.08 (2)
12 (b) 1. b. or c. and the department does not object to the action under s. 157.08 (2) (b)
13 3., the department shall revoke the license granted under par. (b) and require the
14 licensed cemetery authority to reapply for a license under par. (b).

15 **SECTION 3605idg.** 440.91 (1) (e) of the statutes is created to read:

16 440.91 (1) (e) 1. The renewal dates and renewal fees for licenses granted under
17 par. (b) are specified in s. 440.08 (2) (a), except that a licensed cemetery authority is
18 not required to renew its license if the cemetery authority sells less than 10 burial
19 spaces during a period of 2 consecutive calendar years.

20 2. A licensed cemetery authority that is not required to renew its license under
21 subd. 1. shall renew the license if, during a period of 2 consecutive calendar years
22 that is subsequent to the period specified in subd. 1., the cemetery authority sells 10
23 or more burial spaces.

24 **SECTION 3605if.** 440.91 (1m) of the statutes is created to read:

1 440.91 (1m) (a) Except as provided in par. (c) and sub. (6m), a cemetery
2 authority that operates a cemetery for which a license is not required under sub. (1)
3 shall register the cemetery with the department by paying a \$5 registration fee and
4 submitting an application on a form provided by the department that requires the
5 applicant to provide the names of the officers of the cemetery authority and any other
6 information that the department may require. A cemetery authority that operates
7 more than one cemetery for which a license is not required under sub. (1) shall pay
8 a separate registration fee and submit a separate application for each cemetery.

9 (b) The renewal dates and renewal fees for registrations under par. (a) are
10 specified in s. 440.08 (2) (a).

11 (c) A cemetery authority is not required to register under par. (a) if it receives
12 no income, other than gifts, from the sale of lots or services or from trust fund
13 earnings.

14 **SECTION 3605if.** 440.91 (2) (intro.) of the statutes is amended to read:

15 440.91 (2) (intro.) Except as provided in subs. (7) and (10), every ~~individual who~~
16 person that sells or solicits the sale of, or who that expects to sell or solicit the sale
17 of, a total of 10 20 or more cemetery lots or mausoleum burial spaces during a 2
18 calendar year years shall register with be licensed by the department. -An individual
19 A person may not be ~~registered~~ licensed as a cemetery salesperson except upon the
20 written request of a cemetery authority and the payment of the fee specified in s.
21 440.05 (1). The cemetery authority shall certify in writing to the department that
22 the ~~individual person~~ person is competent to act as a cemetery salesperson. ~~Within 10 days~~
23 ~~after the certification of any cemetery salesperson, the cemetery salesperson shall~~
24 ~~verify and~~ An applicant for licensure as a cemetery salesperson shall furnish to the

1 department, in such form as the department prescribes, all of the following
2 information:

3 **SECTION 3605ij.** 440.91 (2) (a) of the statutes is repealed and recreated to read:

4 440.91 (2) (a) The name and address of the applicant and, if the applicant is
5 a business entity, the name and address of each business representative.

6 **SECTION 3605iL.** 440.91 (2) (b) of the statutes is repealed.

7 **SECTION 3605iLg.** 440.91 (2) (c) of the statutes is repealed.

8 **SECTION 3605im.** 440.91 (4) of the statutes is amended to read:

9 440.91 (4) Renewal applications shall be submitted to the department on a
10 form provided by the department on or before the applicable renewal date specified
11 under s. 440.08 (2) (a) and shall include the applicable renewal fee specified under
12 s. 440.08 (2) (a). An applicant for renewal of a cemetery salesperson license shall
13 identify each individual that is exempt from licensure under sub. (7) and that the
14 applicant has supervised during the prior 2 years.

15 **SECTION 3605in.** 440.91 (6m) of the statutes is repealed and recreated to read:

16 440.91 (6m) A religious cemetery authority is not required to be licensed under
17 sub. (1) or registered under sub. (1m).

18 **SECTION 3605ip.** 440.91 (7) of the statutes is renumbered 440.91 (7) (a) and
19 amended to read:

20 440.91 (7) (a) An individual who solicits the sale of cemetery lots or mausoleum
21 spaces in a cemetery organized, maintained, and operated by a town, village, or city,
22 ~~church, synagogue or mosque, religious, or fraternal or benevolent society or~~
23 ~~incorporated college of a religious order~~ is not required to be registered licensed
24 under sub. (2) if the individual is supervised by a cemetery salesperson licensed
25 under sub. (2).

1 **SECTION 3605ir.** 440.91 (7) (b) of the statutes is created to read:

2 440.91 (7) (b) An individual who solicits the sale of cemetery lots or mausoleum
3 spaces in a cemetery owned and operated by a religious cemetery authority is not
4 required to be licensed under sub. (2).

5 **SECTION 3605it.** 440.91 (8) of the statutes is repealed.

6 **SECTION 3605iv.** 440.91 (9) of the statutes is amended to read:

7 440.91 (9) No cemetery authority or cemetery salesperson ~~registered~~ licensed
8 under sub. (1) or (2) may pay a fee or commission as compensation for a referral or
9 as a finder's fee relating to the sale of ~~a cemetery lot~~, cemetery merchandise or
10 ~~mausoleum~~ a burial space to any person who is not ~~registered~~ licensed under sub. (1)
11 or (2) or who is not regularly and lawfully engaged in the sale of ~~cemetery lots~~,
12 cemetery merchandise or ~~mausoleum~~ burial spaces in another state or territory of
13 the United States or a foreign country.

14 **SECTION 3605ix.** 440.91 (10) of the statutes is amended to read:

15 440.91 (10) Nothing in this section requires an individual who is ~~registered~~
16 licensed as a preneed seller under s. 440.92 (1) to be ~~registered~~ licensed as a cemetery
17 salesperson under sub. (2) if the individual only sells or solicits the sale of cemetery
18 merchandise or undeveloped spaces under preneed sales contracts.

19 **SECTION 3605iz.** 440.92 of the statutes is repealed.

20 **SECTION 3605kb.** 440.92 (1) (title) of the statutes is repealed and recreated to
21 read:

22 440.92 (1) (title) LICENSURE.

23 **SECTION 3605kd.** 440.92 (1) (a) of the statutes is amended to read:

24 440.92 (1) (a) Except as provided in subs. (4), and (9) (a) ~~and~~ (10), every
25 individual who sells or solicits the sale of cemetery merchandise or an undeveloped

1 space under a preneed sales contract ~~and, if the~~ is required to be licensed under this
2 subsection and, if applicable, comply with the requirements under s. 445.125. If such
3 an individual is employed by or acting as an agent for a cemetery authority or any
4 other person, that cemetery authority or other person is also required to be registered
5 licensed under this subsection.

6 **SECTION 3605kf.** 440.92 (1) (b) (intro.) of the statutes is amended to read:

7 440.92 (1) (b) (intro.) The department shall issue a certificate of registration
8 licensure as a cemetery preneed seller to any person who does all of the following:

9 **SECTION 3605kh.** 440.92 (1) (bm) of the statutes is created to read:

10 440.92 (1) (bm) If a cemetery authority that is registered under this subsection
11 notifies the department under s. 157.08 (2) (b) 1. (intro.) that it proposes to take an
12 action specified in s. 157.08 (2) (b) 1. b. or c. and the department does not object to
13 the action under s. 157.08 (2) (b) 3., the department shall revoke the registration and
14 require the cemetery authority to reapply for a registration under this subsection.

15 **SECTION 3605kj.** 440.92 (1) (e) of the statutes is amended to read:

16 440.92 (1) (e) Nothing in this subsection requires an individual who is
17 ~~registered~~ licensed as a cemetery salesperson under s. 440.91 (2) to be ~~registered~~
18 licensed under this subsection if the individual does not conduct or solicit any sale
19 under a preneed sales contract.

20 **SECTION 3605kL.** 440.92 (2) (title) of the statutes is renumbered 440.922 (title).

21 **SECTION 3605km.** 440.92 (2) (a) of the statutes is renumbered 440.922 (1) (a),
22 and 440.922 (1) (a) 2., 3., 3g. and 4. (intro.), as renumbered, are amended to read:

23 440.922 (1) (a) 2. By affixing the cemetery merchandise to the ~~cemetery lot or~~
24 mausoleum burial space.

1 3. By storing the cemetery merchandise in a warehouse that is located on the
2 property of the preneed seller if the preneed seller insures the cemetery merchandise
3 and the preneed sales contract requires the preneed seller to ultimately affix the
4 cemetery merchandise to the ~~cemetery lot or mausoleum~~ burial space without
5 additional charge.

6 3g. By storing the cemetery merchandise anywhere on the property of the
7 preneed seller if the property of the preneed seller is located in this state, the preneed
8 seller insures the cemetery merchandise and the preneed sales contract requires the
9 preneed seller to ultimately affix the cemetery merchandise to a ~~cemetery lot~~ burial
10 space, to the outside of or the grounds surrounding a mausoleum or columbarium or
11 to any other outdoor location without additional charge.

12 4. (intro.) By having the cemetery merchandise stored in a warehouse that is
13 not located on the property of the preneed seller if the warehouse has agreed to ship
14 the cemetery merchandise to the preneed seller, purchaser, or beneficiary named in
15 the preneed sales contract without additional charge to the purchaser and the
16 preneed sales contract requires that the cemetery merchandise ultimately be affixed
17 to the ~~cemetery lot or mausoleum~~ burial space without additional charge. If the
18 cemetery merchandise is delivered under this subdivision, all of the following apply:

19 **SECTION 3605kn.** 440.92 (2) (am) of the statutes is renumbered 440.922 (2) and
20 amended to read:

21 440.922 (2) AFFIXTURE OF CEMETERY MERCHANDISE. If a preneed sales contract
22 for the sale of cemetery merchandise requires the preneed seller to ultimately affix
23 the cemetery merchandise to a ~~cemetery lot, mausoleum~~ burial space or other
24 location but the purchaser has not informed the preneed seller of the location where
25 the cemetery merchandise is to be affixed and the location where the cemetery

1 merchandise is to be affixed is not specified in the preneed sales contract, the preneed
2 sales contract may provide that the preneed seller may charge the purchaser an
3 additional fee at the time that the cemetery merchandise is affixed not to exceed the
4 additional costs to the preneed seller that are necessitated by the purchaser's choice
5 of location.

6 **SECTION 3605kp.** 440.92 (2) (b) of the statutes is renumbered 440.922 (1) (b).

7 **SECTION 3605kr.** 440.92 (2) (c) of the statutes is renumbered 440.922 (3) and
8 amended to read:

9 440.922 (3) VOIDING OF CONTRACTS. Except as provided in ~~par. (cm)~~ sub. (4), a
10 preneed sales contract shall provide that if the purchaser voids the preneed sales
11 contract at any time within 10 days after the date of the initial payment the preneed
12 seller shall, within 30 days after the date on which the preneed sales contract is
13 voided, refund all money paid by the purchaser for cemetery merchandise that has
14 not been supplied or delivered and for the mausoleum space.

15 **SECTION 3605kt.** 440.92 (2) (cm) of the statutes is renumbered 440.922 (4).

16 **SECTION 3605kv.** 440.92 (2) (d) of the statutes is renumbered 440.922 (5) (a).

17 **SECTION 3605kx.** 440.92 (2) (e) of the statutes is renumbered 440.922 (5) (b).

18 **SECTION 3605kz.** 440.92 (2) (f) of the statutes is renumbered 440.922 (5) (c) and
19 amended to read:

20 440.922 (5) (c) If a preneed sales contract is voided under par. ~~(e)~~ (b), the
21 preneed seller shall, within 30 days after the date on which the preneed sales
22 contract is voided, refund all money paid by the purchaser, together with interest
23 calculated at the legal rate of interest as provided under s. 138.04.

24 **SECTION 3605mb.** 440.92 (2) (g) and (h) of the statutes are renumbered 440.922
25 (6) and (10).

1 **SECTION 3605md.** 440.92 (2) (i) of the statutes is renumbered 440.922 (7) and
2 amended to read:

3 440.922 (7) TRUSTING REQUIREMENTS. If a preneed sales contract includes
4 provisions for the sale of cemetery merchandise or an undeveloped space that is
5 subject to the trusting requirements under ~~sub. s. 440.92~~ (3) (a) and (b) and for the
6 sale of other goods or services that are not subject to the trusting requirements under
7 ~~sub. s. 440.92~~ (3) (a) and (b), the sale price of the goods or services that are not subject
8 to the trusting requirements may not be inflated for the purpose of allocating a lower
9 sale price to the cemetery merchandise or undeveloped space that is subject to the
10 trusting requirements.

11 **SECTION 3605mf.** 440.92 (2) (j) of the statutes is renumbered 440.922 (8).

12 **SECTION 3605mh.** 440.92 (2) (k) of the statutes is renumbered 440.922 (9) and
13 amended to read:

14 440.922 (9) NOTICE OF RIGHTS. A preneed sales contract shall include the
15 following language in not less than 10–point boldface type: “SECTION 440.92 (2)
16 440.922 OF THE WISCONSIN STATUTES SPECIFIES THE RIGHTS OF THE
17 PURCHASER UNDER THIS CONTRACT. DEPENDING ON THE
18 CIRCUMSTANCES, THESE MAY INCLUDE THE RIGHT TO VOID THE
19 CONTRACT AND RECEIVE A REFUND OR THE RIGHT TO ASSIGN AN
20 INTEREST IN THE CONTRACT TO ANOTHER PERSON.”

21 **SECTION 3605mj.** 440.92 (3) (a) (intro.) of the statutes is renumbered 440.92
22 (3) (a) and amended to read:

23 440.92 (3) (a) A preneed seller shall deposit into a preneed trust fund an
24 amount equal to at least 40% of each payment of principal that is received from the
25 sale of cemetery merchandise under a preneed sales contract, ~~or the wholesale cost~~

1 ~~ratio for the cemetery merchandise multiplied by the amount of the payment of~~
2 ~~principal that is received, whichever is greater.~~ In addition to the amount required
3 to be deposited under this paragraph for the sale of cemetery merchandise and except
4 as provided in par. (c), if a preneed seller receives payment for the sale of an
5 undeveloped space under a preneed sales contract, the preneed seller shall deposit
6 a ~~percentage~~ at least 40% of each payment of principal that is received from the sale
7 of the undeveloped space into a preneed trust fund, ~~determined as follows:~~

8 **SECTION 3605mL.** 440.92 (3) (a) 1. and 2. of the statutes are repealed.

9 **SECTION 3605mn.** 440.92 (3) (c) (intro.) of the statutes is amended to read:

10 440.92 (3) (c) (intro.) A preneed seller is not required to make the deposits
11 required under par. (a) ~~1. and 2.~~ for payments for sales of undeveloped spaces under
12 preneed contracts if any of the following applies:

13 **SECTION 3605mp.** 440.92 (4) (title) of the statutes is amended to read:

14 440.92 (4) (title) EXCEPTIONS TO REGISTRATION LICENSURE REQUIREMENT.

15 **SECTION 3605mr.** 440.92 (4) (a) (intro.) of the statutes is amended to read:

16 440.92 (4) (a) (intro.) Any person who sells or solicits the sale of cemetery
17 merchandise under a preneed sales contract is not required to be ~~registered~~ licensed
18 under sub. (1) and the requirements of sub. (3) (a) and (b) do not apply to the sale if
19 all payments received under the preneed sales contract are trusted as required under
20 s. 445.125 (1) (a) 1. or if all of the following conditions are met:

21 **SECTION 3605mt.** 440.92 (4) (b) of the statutes is amended to read:

22 440.92 (4) (b) If any preneed seller who is not ~~registered~~ licensed under sub.
23 (1) accepts a payment under a preneed sales contract and the merchandise is not
24 delivered within 180 days after the date of the sale, the preneed seller shall
25 immediately notify the purchaser that the purchaser is entitled to a refund of all

1 money paid by the purchaser, together with interest calculated at the legal rate of
2 interest as provided under s. 138.04, at any time before the merchandise is delivered.

3 **SECTION 3605mv.** 440.92 (5) of the statutes is renumbered 440.924.

4 **SECTION 3605mx.** 440.92 (6) (title) of the statutes is renumbered 440.926 (title)
5 and amended to read:

6 **440.926 (title) Reporting; Preneed seller reporting and record keeping;**
7 **audits.**

8 **SECTION 3605mz.** 440.92 (6) (a) of the statutes is renumbered 440.926 (1) (a)
9 and amended to read:

10 440.926 (1) (a) Every preneed seller ~~registered~~ licensed under sub. s. 440.92
11 (1) shall file an annual report with the department. The report shall be made on a
12 form prescribed and furnished by the department. The report shall be made on a
13 calendar-year basis unless the department, by rule, provides for other reporting
14 periods. The report is due on or before the 60th day after the last day of the reporting
15 period.

16 **SECTION 3605ob.** 440.92 (6) (b) and (c) of the statutes are renumbered 440.926
17 (1) (b) and (c).

18 **SECTION 3605od.** 440.92 (6) (d) of the statutes is renumbered 440.926 (2) (c)
19 and amended to read:

20 440.926 (2) (c) All records described under ~~pars. sub. (1) (b) 2. and (c) and~~
21 maintained by the department are confidential and are not available for inspection
22 or copying under s. 19.35 (1). This paragraph does not apply to any information
23 regarding the name, address, or employer of or financial information related to an
24 individual that is requested under s. 49.22 (2m) by the department of workforce
25 development or a county child support agency under s. 59.53 (5).

1 **SECTION 3605of.** 440.92 (6) (e) and (f) of the statutes are renumbered 440.926
2 (1) (d) and (e).

3 **SECTION 3605oh.** 440.92 (6) (g) of the statutes is renumbered 440.926 (2) (a),
4 and 440.926 (2) (a) 1. and 2., as renumbered, are amended to read:

5 440.926 (2) (a) 1. The records needed to prepare the reports required under ~~par.~~
6 sub. (1) (a).

7 2. Records that show, for each deposit in a trust fund or account specified in
8 ~~pars. sub. (1) (b) 2. and (c)~~, the name of the purchaser or beneficiary of the preneed
9 sales contract relating to the deposit and the item purchased.

10 **SECTION 3605oj.** 440.92 (6) (h) of the statutes is renumbered 440.926 (2) (b) and
11 amended to read:

12 440.926 (2) (b) The records under ~~par. sub. (1) (b) 1.~~ shall be permanently
13 maintained by the preneed seller. The records under ~~par. sub. (1) (b) 2.~~ shall be
14 maintained for not less than 3 years after all of the obligations of the preneed sales
15 contract have been fulfilled. The department may promulgate rules to establish
16 longer time periods for maintaining records under this paragraph.

17 **SECTION 3605oL.** 440.92 (6) (i) of the statutes is renumbered 440.926 (3) (a) and
18 amended to read:

19 440.926 (3) (a) The department may promulgate rules requiring preneed
20 sellers ~~registered~~ licensed under ~~sub. s. 440.92 (1)~~ to maintain other records and
21 establishing minimum time periods for the maintenance of those records.

22 **SECTION 3605on.** 440.92 (6) (j) of the statutes is renumbered 440.926 (4) and
23 amended to read:

24 440.926 (4) AUDITS. The department may audit, at reasonable times and
25 frequency, the records, trust funds, and accounts of any preneed seller ~~registered~~

1 licensed under ~~sub. s. 440.92~~ (1), including records, trust funds, and accounts
2 pertaining to services provided by a preneed seller which are not otherwise subject
3 to the requirements under this ~~section~~ subchapter. The department may conduct
4 audits under this ~~paragraph~~ subsection on a random basis, and shall conduct all
5 audits under this ~~paragraph~~ subsection without providing prior notice to the preneed
6 seller.

7 **SECTION 3605op.** 440.92 (6) (k) of the statutes is renumbered 440.926 (3) (b)
8 and amended to read:

9 440.926 (3) (b) The department may promulgate rules establishing a filing fee
10 to accompany the report required under ~~par. sub. (1) (a)~~. The filing fee shall be based
11 on the approximate cost of regulating preneed sellers.

12 **SECTION 3605or.** 440.92 (7) of the statutes is renumbered 440.927 and
13 amended to read:

14 **440.927 Approval of warehouses.** No person may own or operate a
15 warehouse located inside or outside this state unless the warehouse is approved by
16 the department. ~~Upon application, the department shall approve a warehouse that~~
17 ~~is located in this state if the person who operates the warehouse is licensed as a public~~
18 ~~warehouse keeper by the department of agriculture, trade and consumer protection~~
19 ~~under ch. 99, but may not approve a warehouse that is located in this state unless~~
20 ~~the person is so licensed.~~ The department shall promulgate rules establishing the
21 requirements for approval of warehouses ~~that are located outside this state~~ under
22 this section. The rules shall require warehouses ~~that are located outside this state~~
23 to file with the department a bond furnished by a surety company authorized to do
24 business in this state in an amount that is sufficient to guarantee the delivery of
25 cemetery merchandise to purchasers under preneed sales contracts. The

1 department shall compile and keep a current list of the names and addresses of all
2 warehouses approved under this ~~subsection~~ section and shall make the list available
3 for public inspection during the times specified in s. 230.35 (4) (f).

4 **SECTION 3605ot.** 440.92 (9) (title) of the statutes is amended to read:

5 440.92 (9) (title) EXEMPTIONS; CERTIFICATION OF COMPLIANCE OF RELIGIOUS
6 CEMETERY AFFILIATED WITH RELIGIOUS SOCIETY AUTHORITIES.

7 **SECTION 3605ov.** 440.92 (9) (a) of the statutes is amended to read:

8 440.92 (9) (a) ~~If the cemetery authority of a cemetery that is affiliated with a~~
9 ~~religious society organized under ch. 187 or that religious society~~ a religious
10 cemetery authority or the church, synagoguc, mosque, incorporated college of a
11 religious order, or religious society organized under ch. 187 that is affiliated with a
12 religious cemetery authority files an annual certification with the department as
13 provided in this subsection, neither the religious cemetery authority nor any
14 employee of the cemetery is required to be ~~registered~~ licensed as a cemetery preneed
15 seller under sub. (1) during the period for which the certification is effective, but the
16 religious cemetery authority and any employee are required to comply, if applicable,
17 with the requirements of s. 445.125.

18 **SECTION 3605ox.** 440.92 (9) (b) 3. of the statutes is amended to read:

19 440.92 (9) (b) 3. A notarized statement of a person who is legally authorized to
20 act on behalf of the religious ~~society~~ cemetery authority under this subsection that,
21 during the 12-month period immediately preceding the date on which the
22 certification is filed with the department, each employee specified under subd. 2. and
23 the religious cemetery authority have either fully complied or have substantially
24 complied with ~~subs. (2), sub. (3) (a) and (b) and (5)~~ ss. 440.922 and 440.924.

25 **SECTION 3605oz.** 440.92 (9) (c) of the statutes is amended to read:

1 440.92 (9) (c) If the statement under par. (b) 3. includes a statement of
2 substantial compliance, the statement of substantial compliance must also specify
3 those instances when the employee or religious cemetery authority did not fully
4 comply with sub. ~~(2)~~, (3) (a) or (b) or ~~(5)~~ s. 440.922 or 440.924.

5 **SECTION 3605qb.** 440.92 (9) (e) of the statutes is amended to read:

6 440.92 (9) (e) During the effective period specified under par. (d), the
7 department may not audit the preneed trust funds or any records or accounts
8 relating to the preneed trust funds of the religious cemetery authority or any
9 employee of the cemetery to which a certification under this subsection applies.

10 **SECTION 3605qd.** 440.92 (9) (f) of the statutes is amended to read:

11 440.92 (9) (f) The church, synagogue, mosque, incorporated college of a
12 religious order, or religious society that is affiliated with a cemetery to which a
13 certification under this subsection applies is liable for the damages of any person
14 that result from the failure of any employee specified under par. (b) 2. or the religious
15 cemetery authority to fully comply with sub. ~~(2)~~, (3) (a) or (b) or ~~(5)~~ s. 440.922 or
16 440.924 during the 12-month period for which such compliance has been certified
17 under this subsection.

18 **SECTION 3605qf.** 440.92 (10) of the statutes is repealed.

19 **SECTION 3605qh.** 440.922 (1) (title) of the statutes is created to read:

20 440.922 (1) (title) DELIVERY OF CEMETERY MERCHANDISE.

21 **SECTION 3605qhc.** 440.922 (4) (title) of the statutes is created to read:

22 440.922 (4) (title) PHYSICAL ALTERATION OF CEMETERY MERCHANDISE.

23 **SECTION 3605qhe.** 440.922 (5) (title) of the statutes is created to read:

24 440.922 (5) (title) UNDEVELOPED SPACE SALES.

25 **SECTION 3605qhg.** 440.922 (6) (title) of the statutes is created to read:

1 440.922 (6) (title) INTEREST ASSIGNMENTS.

2 **SECTION 3605qhj.** 440.922 (8) (title) of the statutes is created to read:

3 440.922 (8) (title) CONTRACT REQUIREMENTS.

4 **SECTION 3605qhk.** 440.922 (10) (title) of the statutes is created to read:

5 440.922 (10) (title) CONFLICTING PROVISIONS.

6 **SECTION 3605qj.** 440.926 (1) (title) of the statutes is created to read:

7 440.926 (1) (title) REPORTS.

8 **SECTION 3605qjd.** 440.926 (2) (title) of the statutes is created to read:

9 440.926 (2) (title) RECORDS.

10 **SECTION 3605qjf.** 440.926 (3) (title) of the statutes is created to read:

11 440.926 (3) (title) RULES.

12 **SECTION 3605qL.** 440.928 of the statutes is created to read:

13 **440.928 Burial space purchase agreements. (1)** In this section:

14 (a) “Cemetery authority” does not include a religious cemetery authority.

15 (b) “Opening or closing fees” means fees charged by a cemetery authority for
16 opening or closing a burial space.

17 (c) “Purchase agreement” means an agreement for the purchase of a burial
18 space.

19 (2) Before entering into a purchase agreement, a cemetery authority shall
20 disclose to the purchaser any opening or closing fees charged by the cemetery
21 authority.

22 (3) A purchase agreement shall be in writing and shall include each of the
23 following:

24 (a) The terms and conditions and any other pertinent information regarding
25 the purchase, including the price of the burial space, any perpetual care

1 requirements, and any resale, inheritor, cancellation, or refund rights under the
2 agreement.

3 (b) A description of all goods and services that are reasonably expected to be
4 required at the time of need that are not subject to the purchase agreement,
5 including opening and closing fees and any additional fees for weekend, holiday, or
6 after hours burial.

7 (4) A cemetery authority shall assign a serial number to each purchase
8 agreement that it enters into, maintain file copies in numerical order according to
9 the serial number and enter the serial number and a description of each purchase
10 agreement into a sales journal. Any additional purchase by a purchaser more than
11 30 days after entering a purchase agreement shall be the subject of a separate
12 purchase agreement with a separate serial number that is the current unused serial
13 number in consecutive order.

14 **SECTION 3605qn.** 440.929 of the statutes is created to read:

15 **440.929 Rules.** The department shall promulgate rules that establish a code
16 of ethics to govern the professional conduct of cemetery authorities licensed under
17 s. 440.91 (1), cemetery salespersons licensed under s. 440.91 (2), and preneed sellers
18 licensed under s. 440.92 (1).

19 **SECTION 3605qp.** 440.93 (1) (intro.) of the statutes is amended to read:

20 440.93 (1) (intro.) The department may deny a certificate of licensure or
21 registration of a cemetery authority, cemetery salesperson, or preneed seller and the
22 board may reprimand a licensee or registrant or deny, limit, suspend, or revoke a
23 certificate of licensure or registration a cemetery authority, cemetery salesperson or
24 preneed seller if it if the department or board, respectively, finds that the applicant,
25 licensee, or registrant, or, if the applicant, licensee, or registrant, is an association,

1 partnership, limited liability company, or corporation, any officer, director, trustee,
2 member, or shareholder who beneficially owns, holds, or has the power to vote 5% or
3 more of any class of security issued by the applicant, licensee, or registrant, has done
4 any of the following:

5 **SECTION 3605qr.** 440.93 (1) (b) of the statutes is amended to read:

6 440.93 (1) (b) Made a substantial misrepresentation or false promise to an
7 individual to influence the individual to purchase ~~a cemetery lot~~, cemetery
8 merchandise or ~~mausoleum~~ a burial space.

9 **SECTION 3605qt.** 440.93 (1) (c) of the statutes is amended to read:

10 440.93 (1) (c) Engaged in any practice relating to the operation or management
11 of a cemetery or the sale of a cemetery lot, cemetery merchandise or ~~mausoleum~~ a
12 burial space which clearly demonstrates a lack of knowledge or ability to apply
13 professional principles or skills.

14 **SECTION 3605qv.** 440.93 (1) (cm) of the statutes is created to read:

15 440.93 (1) (cm) Engaged in unprofessional or unethical conduct in violation of
16 the code of ethics established in the rules promulgated under s. 440.929.

17 **SECTION 3605qx.** 440.93 (1) (d) of the statutes is amended to read:

18 440.93 (1) (d) ~~Subject to ss. 111.321, 111.322 and 111.335, been convicted of an~~
19 ~~offense~~ Violated any law the circumstances of which substantially relate to the
20 operation or management of a cemetery or the sale of a cemetery lot, cemetery
21 merchandise or ~~mausoleum~~ a burial space. A certified copy of a judgment of
22 conviction is prima facie evidence of a violation.

23 **SECTION 3605qz.** 440.93 (1) (f) of the statutes is amended to read:

24 440.93 (1) (f) Subject to ss. 111.321, 111.322, and 111.34, engaged in any
25 practice relating to the operation or management of a cemetery or the sale of a

1 cemetery lot, cemetery merchandise or ~~mausoleum~~ a burial space while the person's
2 ability to practice was impaired by mental disease or defect or alcohol or other drugs.

3 **SECTION 3605sb.** 440.93 (1) (g) of the statutes is amended to read:

4 440.93 (1) (g) Violated this subchapter or subch. II of ch. 157, any rule
5 promulgated under this subchapter or subch. II of ch. 157, or any order of the
6 department or the board.

7 **SECTION 3605sd.** 440.93 (1m) of the statutes is created to read:

8 440.93 (1m) The board may, in addition to or in lieu of a reprimand or
9 revocation, limitation, suspension, or denial of a certificate of registration or
10 licensure, assess against a person licensed or registered under this subchapter who
11 has done anything specified in sub. (1) (a) to (g) a forfeiture of no more than \$5,000
12 for each separate offense. Each day of continued violation constitutes a separate
13 offense.

14 **SECTION 3605sf.** 440.93 (2) of the statutes is amended to read:

15 440.93 (2) The ~~department~~ board shall determine in each case the period that
16 a limitation, suspension, or revocation of a certificate is effective. This subsection
17 does not apply to a limitation or suspension under s. 440.13 (2) (a).

18 **SECTION 3605sh.** 440.945 (1) (a) of the statutes is amended to read:

19 440.945 (1) (a) "Installed" means permanently affixed to a cemetery lot burial
20 space.

21 **SECTION 3605sj.** 440.945 (2) (a) of the statutes is amended to read:

22 440.945 (2) (a) Adopt regulations, consistent with this section and with
23 standards that the cemetery authority uses for its own monument installations,
24 prescribing requirements and procedures for the sale, delivery, installation, or care
25 of monuments, including requirements that each vendor provide reasonable advance

1 notice to the cemetery authority of the date on which the vendor desires to install a
2 monument; that each vendor carry worker's compensation insurance and a
3 minimum amount of comprehensive general liability insurance, such minimum
4 amount not to exceed \$300,000; and that each owner of a ~~cemetery lot~~ burial space
5 pay all fees and other amounts due the cemetery authority to satisfy any
6 encumbrances pertaining to the ~~cemetery lot~~ burial space before a monument is
7 installed.

8 **SECTION 3605sL.** 440.945 (2) (c) of the statutes is amended to read:

9 440.945 (2) (c) Charge either the owner of a ~~cemetery lot~~ burial space or a
10 vendor a reasonable fee to cover the cemetery authority's labor costs. In this
11 paragraph, "labor costs" means the amount, calculated in accordance with generally
12 accepted accounting principles and practices, that is payable to employees of the
13 cemetery authority for wages and fringe benefits for the period that the employees
14 were engaged in marking the location for and inspecting the installation of the
15 monument to ensure that it was properly installed, and may include any general
16 administrative or overhead costs of the cemetery authority or any other costs that
17 are directly related to marking the location for and inspecting the installation of the
18 monument to ensure that it was properly installed.

19 **SECTION 3605sn.** 440.945 (3) (a) (intro.) of the statutes is amended to read:

20 440.945 (3) (a) (intro.) Every cemetery authority shall keep on file and make
21 available for inspection and copying to owners and prospective purchasers of
22 ~~cemetery lots~~ burial spaces and to other interested persons all of the following
23 information:

24 **SECTION 3605sp.** 440.945 (4) (a) 1. of the statutes is amended to read:

1 440.945 (4) (a) 1. Require the owner or purchaser of a ~~cemetery lot~~ burial space
2 to purchase a monument or services related to the installation of a monument from
3 the cemetery authority.

4 **SECTION 3605sr.** 440.945 (4) (a) 2. of the statutes is amended to read:

5 440.945 (4) (a) 2. Restrict the right of the owner or purchaser of a ~~cemetery lot~~
6 burial space to purchase a monument or services related to the installation of a
7 monument from the vendor of his or her choice.

8 **SECTION 3605st.** 440.945 (4) (a) 3. of the statutes is amended to read:

9 440.945 (4) (a) 3. Except as provided in sub. (2) (c), charge the owner or
10 purchaser of a ~~cemetery lot~~ burial space a fee for purchasing a monument or services
11 related to the installation of a monument from a vendor, or charge a vendor a fee for
12 delivering or installing the monument. Nothing in this subdivision shall be
13 construed to prohibit a cemetery authority from charging the owner or purchaser of
14 a ~~cemetery lot~~ burial space a reasonable fee for services relating to the care of a
15 monument.

16 **SECTION 3605sv.** 440.945 (4) (a) 4. of the statutes is amended to read:

17 440.945 (4) (a) 4. Discriminate against any owner or purchaser of a ~~cemetery~~
18 lot burial space who has purchased a monument or services related to the
19 installation of a monument from a vendor.

20 **SECTION 3605sx.** 440.945 (5) (a) of the statutes is amended to read:

21 440.945 (5) (a) If the ~~department~~ board has reason to believe that any person,
22 other than a religious cemetery authority, is violating this section and that the
23 continuation of that activity might cause injury to the public interest, the
24 department may investigate.

25 **SECTION 3605sz.** 440.945 (5) (am) of the statutes is created to read:

1 440.945 (5) (am) If the department has reason to believe that any religious
2 cemetery authority is violating this section and that the continuation of that activity
3 might cause injury to the public interest, the department may investigate.

4 **SECTION 3605ub.** 440.945 (5) (b) of the statutes is amended to read:

5 440.945 (5) (b) The department of justice or any district attorney, upon
6 informing the department of justice, may commence an action in circuit court in the
7 name of the state to restrain by temporary or permanent injunction any violation of
8 this section. The court may, prior to entry of final judgment, make such orders or
9 judgments as may be necessary to restore to any person any pecuniary loss suffered
10 because of the acts or practices involved in the action, if proof of such loss is submitted
11 to the satisfaction of the court. The department of justice may subpoena persons and
12 require the production of books and other documents, and may request the
13 department of regulation and licensing or board to exercise its authority under par.
14 (a) or (am) to aid in the investigation of alleged violations of this section.

15 **SECTION 3605ud.** 440.947 (1) (c) of the statutes is renumbered 440.90 (6g).

16 **SECTION 3605uf.** 440.947 (5) of the statutes is amended to read:

17 440.947 (5) A person who sells a casket, outer burial container, or cemetery
18 merchandise shall retain a copy of the price list specified in sub. (2) (intro.) for at least
19 one year after the date of its last distribution to a prospective buyer and shall retain
20 a copy of each form that is provided to a buyer under sub. (3) (intro.) for at least one
21 year after completion of a sale. A person required to retain a copy under this
22 subsection shall make the copy available for inspection by the department or board
23 upon request.

24 **SECTION 3605uh.** 440.948 of the statutes is created to read:

1 **440.948 Burial agreements.** Any agreement for the purchase of a casket,
2 outer burial container not preplaced into the burial excavation of a grave, or
3 combination casket–outer burial container, that is not immediately required for the
4 burial or other disposition of human remains, is subject to the requirements of s.
5 445.125 (1).

6 **SECTION 3605uj.** 440.949 of the statutes is created to read:

7 **440.949 Rules; review of rules. (1)** Before submitting any proposed rules
8 relating to this subchapter, except for rules relating exclusively to religious cemetery
9 authorities, to the legislative council staff under s. 227.15, the department shall
10 submit the proposed rules to the board for comment. The board shall have 30 days
11 to submit comments on the proposed rules to the secretary.

12 **(2)** When promulgating emergency rules under s. 227.24 relating to this
13 subchapter, except for rules relating exclusively to religious cemetery authorities,
14 the department shall provide a copy of the rules to the board prior to publication of
15 the rules in the official state newspaper.

16 **(3)** The chairperson of the board, or his or her designee from the board, may
17 cochair with the secretary, or the secretary's designee, any public hearing held by the
18 department on proposed rules relating to this subchapter other than rules relating
19 exclusively to religious cemetery authorities.

20 **(4)** The department shall submit to the board a copy of the report required
21 under s. 227.19 (2) on any proposed final rules relating to this subchapter other than
22 rules relating exclusively to religious cemetery authorities. The board may prepare
23 a dissenting report stating its recommendations on the proposed final rules. Any
24 dissenting report shall be prepared within 10 days from the date of receipt of the
25 department's report, attached to the department's report and sent to the presiding

1 officer of each house of the legislature and distributed under s. 227.19 (2). The
2 department shall publish a statement to appear in the Wisconsin administrative
3 register indicating that a dissenting report of the board has been submitted to the
4 presiding officer of each house of the legislature.

5 (5) The department shall provide staff to assist the board in the review of
6 administrative rules and preparation of comments or dissenting reports.

7 **SECTION 3605uL.** 440.95 (1) of the statutes is amended to read:

8 440.95 (1) Any cemetery authority that is required to register under s. 440.91
9 ~~(1)~~ (1m) and that knowingly fails to register may be fined not more than \$100.

10 **SECTION 3605un.** 440.95 (1m) of the statutes is created to read:

11 440.95 (1m) Any cemetery authority that, without a license granted under s.
12 440.91 (1), sells 10 or more burial, mausoleum, or columbarium spaces at a cemetery
13 during a calendar year or has \$100,000 or more in trust fund accounts for a cemetery
14 may be fined not more than \$100.

15 **SECTION 3605up.** 440.95 (2) of the statutes is amended to read:

16 440.95 (2) Any ~~individual who~~ person that is required to register ~~be licensed~~
17 as a cemetery salesperson under s. 440.91 (2) and ~~who fails to register that is not~~
18 licensed may be fined not less than \$25 nor more than \$200 or imprisoned for not
19 more than 6 months or both.

20 **SECTION 3605ur.** 440.95 (2m) of the statutes is created to read:

21 440.95 (2m) Any person that is required to be licensed as a preneed seller under
22 s. 440.92 (1) (a) and that is not licensed may be fined not more than \$1,000 or
23 imprisoned for not more than 90 days or both.

24 **SECTION 3605ut.** 440.95 (4) (a) of the statutes is repealed.

25 **SECTION 3605uv.** 440.95 (4) (c) of the statutes is amended to read:

1 440.95 (4) (c) Fails to file a report or files an incomplete, false, or misleading
2 report under s. 440.92 (6) 440.926.

3 **SECTION 3605ux.** 440.95 (5) of the statutes is amended to read:

4 440.95 (5) Except as provided in sub. (4), any person who violates s. ss. 440.92
5 to 440.927 or any rule promulgated under s. ss. 440.92 to 440.927 may be required
6 to forfeit not more than \$200 for each offense. Each day of continued violation
7 constitutes a separate offense.”

8 **30.** Page 1352, line 18: after that line insert:

9 “(4f) CEMETERY REGULATION.

10 (a) *Definition.* In this subsection:

11 1. “Board” means the cemetery board.

12 2. “Cemetery association” has the meaning given in section 157.061 (1r) of the
13 statutes.

14 (b) *Filing requirement.* A cemetery association that was not required to be
15 registered under section 440.91 (1), 1999 stats., and that is not organized or
16 conducted for pecuniary profit shall, no later than the first day of the 6th month
17 beginning after the effective date of this paragraph, file with the department of
18 financial institutions any copies of certifications, resolutions, or proceedings that the
19 cemetery association delivered to the office of the register of deeds of the county in
20 which the cemetery is located under section 157.062 (9), 1999 stats.

21 (c) *Initial appointments to cemetery board.*

22 1. Notwithstanding section 15.405 (3m) (b) 1. and (c) of the statutes, as created
23 by this act, the initial cemetery authority business representative members of the
24 board need not be business representatives of a cemetery authority that is licensed

1 under section 440.91 (1) of the statutes, as affected by this act, to be appointed to and
2 serve as members of the board until the first day of the 13th month beginning after
3 the effective date of this subdivision.

4 2. Notwithstanding section 15.07 (1) (cm) of the statutes, as affected by this act,
5 and section 15.405 (3m) (b) 1. of the statutes, as created by this act, the initial
6 members of the board shall be appointed by the first day of the 4th month beginning
7 after the effective date of this subdivision for the following terms:

8 a. Two cemetery authority business representative members and one public
9 member, for terms expiring on May 1, 2003.

10 b. One cemetery authority business representative member and one public
11 member, for terms expiring on May 1, 2004.

12 c. One cemetery authority business representative member and the
13 representative of the department of justice, for terms expiring on May 1, 2005.

14 (d) *Preneed seller licenses.* Notwithstanding section 440.92 (1) (a) and (b)
15 (intro.) of the statutes, as affected by this act, the department of regulation and
16 licensing shall issue a certificate of licensure as a cemetery preneed seller to any
17 person who, on the effective date of this paragraph, holds a valid certificate of
18 registration as a cemetery preneed seller.”

19 **31.** Page 1403, line 5: after that line insert:

20 “(2f) NONDISCLOSURE OF CERTAIN INFORMATION. The treatment of section 440.14
21 (1) (a), (2), (3), (4), and (5) of the statutes first applies to lists furnished by a board
22 in the department of regulation and licensing, other than a credentialing board, on
23 the effective date of this subsection.”

24

(END)

DRAFTER'S NOTE
FROM THE
LEGISLATIVE REFERENCE BUREAU

LRBb0770/2dn
MDK:hmh:hmh

June 19, 2001

John Keckhaver:

This version is identical to the previous version, except that s. 157.10 (3), as renumbered, refers to a brother, sister, or other relative, instead of just a relative, and proposed s. 157.10 (1) (b) refers to a brother or sister, instead of a sibling.

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