



Sen. Meg Loughran Cappel

**Filed: 3/22/2023**

10300SB2146sam002

LRB103 28651 BMS 59820 a

1 AMENDMENT TO SENATE BILL 2146

2 AMENDMENT NO. \_\_\_\_\_. Amend Senate Bill 2146, AS AMENDED,  
3 by replacing everything after the enacting clause with the  
4 following:

5 "Section 5. The Regulatory Sunset Act is amended by  
6 changing Sections 4.34 and 4.39 as follows:

7 (5 ILCS 80/4.34)

8 Sec. 4.34. Acts and Section repealed on January 1, 2024.  
9 The following Acts and Section of an Act are repealed on  
10 January 1, 2024:

11 ~~The Crematory Regulation Act.~~

12 The Electrologist Licensing Act.

13 The Illinois Certified Shorthand Reporters Act of  
14 1984.

15 The Illinois Occupational Therapy Practice Act.

16 The Illinois Public Accounting Act.

1           The Private Detective, Private Alarm, Private  
2           Security, Fingerprint Vendor, and Locksmith Act of 2004.

3           The Registered Surgical Assistant and Registered  
4           Surgical Technologist Title Protection Act.

5           Section 2.5 of the Illinois Plumbing License Law.

6           The Veterinary Medicine and Surgery Practice Act of  
7           2004.

8           (Source: P.A. 102-291, eff. 8-6-21.)

9           (5 ILCS 80/4.39)

10          Sec. 4.39. Acts repealed on January 1, 2029 and December  
11          31, 2029.

12          (a) The following Acts are ~~Act is~~ repealed on January 1,  
13          2029:

14                 The Environmental Health Practitioner Licensing Act.

15                 The Crematory Regulation Act.

16          (b) The following Act is repealed on December 31, 2029:

17                 The Structural Pest Control Act.

18          (Source: P.A. 100-716, eff. 8-3-18; 100-796, eff. 8-10-18;  
19          101-81, eff. 7-12-19.)

20          Section 10. The Crematory Regulation Act is amended by  
21          changing Sections 10, 22, and 35 as follows:

22                 (410 ILCS 18/10)

23                 (Section scheduled to be repealed on January 1, 2024)

1           Sec. 10. Establishment of crematory and licensing of  
2 crematory authority.

3           (a) Any person doing business in this State, or any  
4 cemetery, funeral establishment, corporation, partnership,  
5 joint venture, voluntary organization or any other entity, may  
6 erect, maintain, and operate a crematory in this State and  
7 provide the necessary appliances and facilities for the  
8 cremation of human remains in accordance with this Act.

9           (b) A crematory shall be subject to all local, State, and  
10 federal health and environmental protection requirements and  
11 shall obtain all necessary licenses and permits from the  
12 Department of Financial and Professional Regulation, the  
13 Department of Public Health, the federal Department of Health  
14 and Human Services, and the Illinois and federal Environmental  
15 Protection Agencies, or such other appropriate local, State,  
16 or federal agencies.

17           (c) A crematory may be constructed on or adjacent to any  
18 cemetery, on or adjacent to any funeral establishment, or at  
19 any other location consistent with local zoning regulations.

20           (d) An application for licensure as a crematory authority  
21 shall be in writing on forms furnished by the Comptroller.  
22 Applications shall be accompanied by a fee of \$100 ~~\$50~~ and  
23 shall contain all of the following:

24           (1) The full name and address, both residence and  
25 business, of the applicant if the applicant is an  
26 individual; the full name and address of every member if

1 the applicant is a partnership; the full name and address  
2 of every member of the board of directors if the applicant  
3 is an association; and the name and address of every  
4 officer, director, and shareholder holding more than 25%  
5 of the corporate stock if the applicant is a corporation.

6 (2) The address and location of the crematory.

7 (3) A description of the type of structure and  
8 equipment to be used in the operation of the crematory,  
9 including the operating permit number issued to the  
10 cremation device by the Illinois Environmental Protection  
11 Agency.

12 (4) Any further information that the Comptroller  
13 reasonably may require.

14 (e) Each crematory authority shall file an annual report  
15 with the Comptroller, accompanied with a \$25 fee, providing  
16 (i) an affidavit signed by the owner of the crematory  
17 authority that at the time of the report the cremation device  
18 was in proper operating condition, (ii) the total number of  
19 all cremations performed at the crematory during the past  
20 year, (iii) attestation by the licensee that all applicable  
21 permits and certifications are valid, (iv) either (A) any  
22 changes required in the information provided under subsection  
23 (d) or (B) an indication that no changes have occurred, and (v)  
24 any other information that the Comptroller may require. The  
25 annual report shall be filed by a crematory authority on or  
26 before March 15 of each calendar year. If the fiscal year of a

1 crematory authority is other than on a calendar year basis,  
2 then the crematory authority shall file the report required by  
3 this Section within 75 days after the end of its fiscal year.  
4 If a crematory authority fails to submit an annual report to  
5 the Comptroller within the time specified in this Section, the  
6 Comptroller shall impose upon the crematory authority a  
7 penalty of \$5 for each and every day the crematory authority  
8 remains delinquent in submitting the annual report. The  
9 Comptroller may abate all or part of the \$5 daily penalty for  
10 good cause shown. The \$25 annual report fee shall be deposited  
11 in the Comptroller's Administrative Fund.

12 (f) All records required to be maintained under this Act,  
13 including but not limited to those relating to the license and  
14 annual report of the crematory authority required to be filed  
15 under this Section, shall be subject to inspection by the  
16 Comptroller upon reasonable notice.

17 (g) The Comptroller may inspect crematory records at the  
18 crematory authority's place of business to review the  
19 licensee's compliance with this Act. The Comptroller may  
20 charge a \$100 fee for the inspection of the licensee. The  
21 inspection must include verification that:

22 (1) the crematory authority has complied with  
23 record-keeping requirements of this Act;

24 (2) a crematory device operator's certification of  
25 training and the required continuing education  
26 certification are ~~is~~ conspicuously displayed at the

1 crematory;

2 (3) the cremation device has a current operating  
3 permit issued by the Illinois Environmental Protection  
4 Agency and the permit is conspicuously displayed in the  
5 crematory;

6 (4) the crematory authority is in compliance with  
7 local zoning requirements;

8 (5) the crematory authority license issued by the  
9 Comptroller is conspicuously displayed at the crematory;  
10 and

11 (6) other details as determined by rule.

12 (h) The Comptroller shall issue licenses under this Act to  
13 the crematories that are registered with the Comptroller as of  
14 on March 1, 2012 without requiring the previously registered  
15 crematories to complete license applications.

16 (i) Every license issued under this Act shall be renewed  
17 every 5 years for a renewal fee of \$100 to be sent to the  
18 Comptroller. The renewal fee shall be deposited into the  
19 Comptroller's Administrative Fund. The Comptroller, upon the  
20 request of an interested person, or on his or her own motion,  
21 may issue new licenses to a licensee whose license or licenses  
22 have been revoked, if no factor or condition exists that would  
23 have warranted the Comptroller to refuse the issuance of the  
24 license.

25 (Source: P.A. 97-679, eff. 2-6-12; 97-813, eff. 7-13-12;  
26 98-463, eff. 8-16-13.)

1 (410 ILCS 18/22)

2 (Section scheduled to be repealed on January 1, 2024)

3 Sec. 22. Performance of cremation service; training. A  
4 person may not perform a cremation service in this State  
5 unless he or she has completed training in performing  
6 cremation services and received certification by a program  
7 recognized by the Comptroller. The crematory authority must  
8 conspicuously display the certification at the crematory  
9 authority's place of business. Any new employee shall have a  
10 reasonable time period, not to exceed one year, to attend a  
11 recognized training program. In the interim, the new employee  
12 may perform a cremation service if he or she has received  
13 training from another person who has received certification by  
14 a program recognized by the Comptroller and is under the  
15 supervision of the trained person. Each person performing a  
16 cremation service shall complete a continuing education  
17 cremation course at least 2 hours in length from a provider  
18 recognized by the Comptroller every 5 years. For purposes of  
19 this Act, the Comptroller may recognize any training program  
20 that provides training in the operation of a cremation device,  
21 in the maintenance of a clean facility, and in the proper  
22 handling of human remains. The Comptroller may recognize any  
23 course that is conducted by a death care trade association in  
24 Illinois or the United States or by a manufacturer of a  
25 cremation unit that is consistent with the standards provided

1 in this Act or as otherwise determined by rule.

2 (Source: P.A. 96-863, eff. 3-1-12; 97-679, eff. 2-6-12.)

3 (410 ILCS 18/35)

4 (Section scheduled to be repealed on January 1, 2024)

5 Sec. 35. Cremation procedures.

6 (a) Human remains shall not be cremated within 24 hours  
7 after the time of death, as indicated on the Medical  
8 Examiner's/Coroner's Certificate of Death. In any death, the  
9 human remains shall not be cremated by the crematory authority  
10 until a cremation permit has been received from the coroner or  
11 medical examiner of the county in which the death occurred and  
12 the crematory authority has received a cremation authorization  
13 form, executed by an authorizing agent, in accordance with the  
14 provisions of Section 15 of this Act. In no instance, however,  
15 shall the lapse of time between the death and the cremation be  
16 less than 24 hours, unless (i) it is known the deceased has an  
17 infectious or dangerous disease and that the time requirement  
18 is waived in writing by the medical examiner or coroner where  
19 the death occurred or (ii) because of a religious requirement.

20 (b) Except as set forth in subsection (a) of this Section,  
21 a crematory authority shall have the right to schedule the  
22 actual cremation to be performed at its own convenience, at  
23 any time after the human remains have been delivered to the  
24 crematory authority, unless the crematory authority has  
25 received specific instructions to the contrary on the



1 cremation authorization form.

2 (c) No crematory authority shall cremate human remains  
3 when it has actual knowledge that human remains contain a  
4 pacemaker or any other material or implant that may be  
5 potentially hazardous to the person performing the cremation.

6 (d) No crematory authority shall refuse to accept human  
7 remains for cremation because such human remains are not  
8 embalmed.

9 (e) Whenever a crematory authority is unable or  
10 unauthorized to cremate human remains immediately upon taking  
11 custody of the remains, the crematory authority shall place  
12 the human remains in a holding facility in accordance with the  
13 crematory authority's rules and regulations. The crematory  
14 authority must notify the authorizing agent of the reasons for  
15 delay in cremation if a properly authorized cremation is not  
16 performed within any time period expressly contemplated in the  
17 authorization.

18 (f) A crematory authority shall not accept a casket or  
19 alternative container from which there is any evidence of the  
20 leakage of body fluids.

21 (g) The casket or the alternative container shall be  
22 cremated with the human remains or destroyed, unless the  
23 crematory authority has notified the authorizing agent to the  
24 contrary on the cremation authorization form and obtained the  
25 written consent of the authorizing agent.

26 (h) The simultaneous cremation of the human remains of

1 more than one person within the same cremation chamber,  
2 without the prior written consent of the authorizing agent, is  
3 prohibited except for common cremation pursuant to Section  
4 11.4 of the Hospital Licensing Act. Nothing in this  
5 subsection, however, shall prevent the simultaneous cremation  
6 within the same cremation chamber of body parts delivered to  
7 the crematory authority from multiple sources, or the use of  
8 cremation equipment that contains more than one cremation  
9 chamber.

10 (i) No unauthorized person shall be permitted in the  
11 holding facility or cremation room while any human remains are  
12 being held there awaiting cremation, being cremated, or being  
13 removed from the cremation chamber.

14 (j) A crematory authority shall not remove any dental  
15 gold, body parts, organs, or any item of value prior to or  
16 subsequent to a cremation without previously having received  
17 specific written authorization from the authorizing agent and  
18 written instructions for the delivery of these items to the  
19 authorizing agent. Under no circumstances shall a crematory  
20 authority profit from making or assisting in any removal of  
21 valuables.

22 (k) Upon the completion of each cremation, and insofar as  
23 is practicable, all of the recoverable residue of the  
24 cremation process shall be removed from the cremation chamber.

25 (l) If all of the recovered cremated remains will not fit  
26 within the receptacle that has been selected, the remainder of

1 the cremated remains shall be returned to the authorizing  
2 agent or the agent's designee in a separate container. The  
3 crematory authority shall not return to an authorizing agent  
4 or the agent's designee more or less cremated remains than  
5 were removed from the cremation chamber.

6 (m) A crematory authority shall not knowingly represent to  
7 an authorizing agent or the agent's designee that a temporary  
8 container or urn contains the cremated remains of a specific  
9 decedent when it does not.

10 (n) Cremated remains shall be shipped only by a method  
11 that has an internal tracing system available and that  
12 provides a receipt signed, in either paper or electronic  
13 format, by the person accepting delivery.

14 (o) A crematory authority shall maintain an identification  
15 system that shall ensure that it shall be able to identify the  
16 human remains in its possession throughout all phases of the  
17 cremation process.

18 (p) A crematory authority shall not take possession of  
19 unembalmed human remains that cannot be cremated within 24  
20 hours unless it provides or maintains either of the following  
21 capable of maintaining a temperature of less than 40 degrees  
22 Fahrenheit: an operable refrigeration unit, with cleanable,  
23 noncorrosive interior and exterior finishes, or a suitable  
24 cooling room.

25 (Source: P.A. 102-824, eff. 1-1-23.)

1 Section 15. The Illinois Pre-Need Cemetery Sales Act is  
2 amended by changing Section 22 as follows:

3 (815 ILCS 390/22) (from Ch. 21, par. 222)

4 Sec. 22. Cemetery Consumer Protection Fund.

5 (a) Every seller engaging in pre-need sales shall pay to  
6 the Comptroller \$5 for each said contract entered into, to be  
7 paid into a special income earning fund hereby created in the  
8 State Treasury, known as the Cemetery Consumer Protection  
9 Fund. The above said fees shall be remitted to the Comptroller  
10 semi-annually within 30 days after the end of June and  
11 December for all contracts that have been entered in such 6  
12 month period.

13 (b) All monies paid into the fund together with all  
14 accumulated undistributed income thereon shall be held as a  
15 special fund in the State Treasury. The fund shall be used  
16 solely for the purpose of providing restitution to consumers  
17 who have suffered pecuniary loss arising out of pre-need  
18 sales, to help pay expenses of cemeteries or mausoleums in  
19 court-ordered receivership, ~~or~~ to satisfy Receiver's fees, or  
20 to administer the Comptroller's program for the purpose of  
21 cleaning up abandoned or neglected cemeteries located in  
22 Illinois.

23 (c) Restitution or reimbursement for pre-need merchandise  
24 or services shall not exceed the reasonable average regional  
25 cost of the contracted merchandise at current prices.

1 (d) Whenever restitution is paid by the fund, the fund  
2 shall be subrogated to the amount of such restitution, and the  
3 Comptroller shall request the Attorney General to engage in  
4 all reasonable post judgment collection steps to collect said  
5 restitution from the judgment debtor and reimburse the fund.

6 (e) (Blank).

7 (f) The fund may not be allocated for any purpose other  
8 than that specified in this Act.

9 (g) Notwithstanding any other provision of this Section,  
10 the payment of restitution from the fund shall be a matter of  
11 grace and not of right and no purchaser shall have any vested  
12 rights in the fund as a beneficiary or otherwise. Prior to  
13 seeking restitution from the fund, a purchaser or beneficiary  
14 seeking payment of restitution shall apply for restitution on  
15 a form provided by the Comptroller. The form shall include any  
16 information the Comptroller may reasonably require in order  
17 for the Comptroller to determine that restitution or  
18 reimbursement for cemetery merchandise or services is  
19 appropriate.

20 (h) Annually, the status of the fund shall be reviewed by  
21 the Comptroller, and if she or he determines that the fund  
22 together with all accumulated income earned thereon, equals or  
23 exceeds \$10,000,000 and that the total number of outstanding  
24 claims filed against the fund is less than 10% of the fund's  
25 current balance, then payments to the fund pursuant to  
26 subsection (a) of this Section shall be suspended until such

1 time as the fund's balance drops below \$10,000,000 or the  
2 total number of outstanding claims filed against the fund is  
3 more than 10% of the fund's current balance, but on such  
4 suspension, the fund shall not be considered inactive.

5 (Source: P.A. 101-34, eff. 6-28-19.)

6 Section 99. Effective date. This Act takes effect upon  
7 becoming law.".