

# HOUSE BILL 349

C2

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By: **Chair, Economic Matters Committee (By Request – Departmental – Labor, Licensing and Regulation)**

Introduced and read first time: January 25, 2013

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Business Regulation – Cemeteries – Prohibited Acts and Penalties**

3 FOR the purpose of altering a certain prohibition on establishing, operating, or  
4 allowing a cemetery to be operated in violation of certain provisions of law  
5 regarding the perpetual care of cemeteries; altering the penalties for violations  
6 of certain provisions of law relating to perpetual care trusts, preneed trusts, and  
7 the operation of a cemetery, crematory, or burial goods business; providing that  
8 corporate officers who are responsible for a violation of certain provisions of law  
9 relating to the perpetual care of cemeteries are guilty of a misdemeanor and are  
10 subject to certain penalties; providing that a person who willfully  
11 misappropriates or intentionally and fraudulently converts perpetual care trust  
12 funds or preneed trust funds in excess of a certain amount is guilty of a felony  
13 and subject to a certain penalty; repealing certain obsolete language and  
14 provisions of law relating to penalties for violations of certain provisions of law  
15 regarding the perpetual care of cemeteries; and generally relating to cemeteries.

16 BY repealing and reenacting, with amendments,  
17 Article – Business Regulation  
18 Section 5–609, 5–712, and 5–904  
19 Annotated Code of Maryland  
20 (2010 Replacement Volume and 2012 Supplement)

21 BY adding to  
22 Article – Business Regulation  
23 Section 5–610  
24 Annotated Code of Maryland  
25 (2010 Replacement Volume and 2012 Supplement)

26 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
27 MARYLAND, That the Laws of Maryland read as follows:

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 **Article – Business Regulation**2 **5–609.**

3 [(a) A person] **EXCEPT AS PROVIDED IN § 5–602 OF THIS SUBTITLE, A**  
4 **SOLE PROPRIETOR REGISTERED CEMETERIAN, PERMIT HOLDER, OR ANY OTHER**  
5 **PERSON SUBJECT TO THE PERMIT OR REGISTRATION REQUIREMENTS OF THIS**  
6 **TITLE** may not establish [or], operate [a public or private cemetery], or allow a  
7 [public or private] cemetery to be operated in violation of this subtitle.

8 [(b) A person who violates this section is guilty of a misdemeanor and, on  
9 conviction, is subject to a fine not exceeding \$1,000 or imprisonment not exceeding 1  
10 year or both.

11 (c) If a sole proprietor registered cemeterian, a permit holder, or any other  
12 person subject to the trust requirements of this subtitle violates this subtitle, that  
13 person is guilty of a misdemeanor and, on conviction, is subject to a fine not exceeding  
14 \$1,000 or imprisonment not exceeding 1 year or both.]

15 **5–610.**

16 (A) **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS**  
17 **SECTION, A SOLE PROPRIETOR REGISTERED CEMETERIAN, PERMIT HOLDER, OR**  
18 **ANY OTHER PERSON SUBJECT TO THE PERMIT OR REGISTRATION**  
19 **REQUIREMENTS OF THIS TITLE WHO VIOLATES THIS SUBTITLE IS GUILTY OF A**  
20 **MISDEMEANOR AND, ON CONVICTION, IS SUBJECT TO:**

21 (1) **FOR A FIRST VIOLATION, A FINE NOT EXCEEDING \$5,000 OR**  
22 **IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH;**

23 (2) **FOR A SECOND VIOLATION, A FINE NOT EXCEEDING \$15,000**  
24 **OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH; AND**

25 (3) **FOR A THIRD OR SUBSEQUENT VIOLATION, A FINE NOT**  
26 **EXCEEDING \$25,000 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.**

27 (B) **EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF THIS**  
28 **SECTION, IF A CORPORATION VIOLATES THIS SUBTITLE, EACH OFFICER**  
29 **RESPONSIBLE FOR THE VIOLATION IS GUILTY OF A MISDEMEANOR AND, ON**  
30 **CONVICTION, IS SUBJECT TO:**

31 (1) **FOR A FIRST VIOLATION, A FINE NOT EXCEEDING \$5,000 OR**  
32 **IMPRISONMENT NOT EXCEEDING 1 YEAR OR BOTH;**

1           **(2) FOR A SECOND VIOLATION, A FINE NOT EXCEEDING \$15,000**  
2 **OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH; AND**

3           **(3) FOR A THIRD OR SUBSEQUENT VIOLATION, A FINE NOT**  
4 **EXCEEDING \$25,000 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.**

5           **(C) A PERSON WHO WILLFULLY MISAPPROPRIATES OR INTENTIONALLY**  
6 **AND FRAUDULENTLY CONVERTS PERPETUAL CARE TRUST FUNDS IN EXCESS OF**  
7 **\$100 TO THAT PERSON'S OWN USE IS GUILTY OF A FELONY AND, ON**  
8 **CONVICTION, IS SUBJECT TO A FINE NOT EXCEEDING \$50,000 OR**  
9 **IMPRISONMENT NOT EXCEEDING 10 YEARS OR BOTH.**

10 5-712.

11           (a) A seller may not fail to deposit, as required by this subtitle, money  
12 received under or in connection with a preneed burial contract.

13           (b) (1) **[A] EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF**  
14 **THIS SECTION, A** person who violates this section is guilty of a misdemeanor and, on  
15 conviction, is subject to:

16                   **(I) FOR A FIRST VIOLATION, a fine not exceeding [\$5,000]**  
17 **\$10,000 or imprisonment not exceeding 1 year or both;**

18                   **(II) FOR A SECOND VIOLATION, A FINE NOT EXCEEDING**  
19 **\$15,000 OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH; AND**

20                   **(III) FOR A THIRD OR SUBSEQUENT VIOLATION, A FINE NOT**  
21 **EXCEEDING \$25,000 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.**

22           (2) **[If] EXCEPT AS OTHERWISE PROVIDED IN SUBSECTION (C) OF**  
23 **THIS SECTION, IF** a corporation violates this section, each officer responsible for the  
24 violation is guilty of a misdemeanor and, on conviction, is subject to:

25                   **(I) FOR A FIRST VIOLATION, a fine not exceeding [\$5,000]**  
26 **\$10,000 or imprisonment not exceeding 1 year or both;**

27                   **(II) FOR A SECOND VIOLATION, A FINE NOT EXCEEDING**  
28 **\$15,000 OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH; AND**

29                   **(III) FOR A THIRD OR SUBSEQUENT VIOLATION, A FINE NOT**  
30 **EXCEEDING \$25,000 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.**

1           **(C) A PERSON WHO WILLFULLY MISAPPROPRIATES OR INTENTIONALLY**  
2 **AND FRAUDULENTLY CONVERTS PRENEED TRUST FUNDS IN EXCESS OF \$100 TO**  
3 **THAT PERSON’S OWN USE IS GUILTY OF A FELONY AND, ON CONVICTION, IS**  
4 **SUBJECT TO A FINE NOT EXCEEDING \$50,000 OR IMPRISONMENT NOT**  
5 **EXCEEDING 10 YEARS OR BOTH.**

6 5–904.

7           A person who violates this subtitle is guilty of a misdemeanor and, on  
8 conviction, is subject to:

9                   **(1) FOR A FIRST VIOLATION, a fine not exceeding [\$3,000] \$5,000 or**  
10 **imprisonment not exceeding 1 year or both;**

11                   **(2) FOR A SECOND VIOLATION, A FINE NOT EXCEEDING \$10,000**  
12 **OR IMPRISONMENT NOT EXCEEDING 2 YEARS OR BOTH; AND**

13                   **(3) FOR A THIRD OR SUBSEQUENT VIOLATION, A FINE NOT**  
14 **EXCEEDING \$15,000 OR IMPRISONMENT NOT EXCEEDING 3 YEARS OR BOTH.**

15           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
16 July 1, 2013.