

WORK PRODUCT: DRAFT REVISIONS-PROPOSED

THE MICHIGAN PENAL CODE (EXCERPT)
Act 328 of 1931

[RECOMMENDED NEW] 750.160d Prohibited acts; violations; exceptions; “Trust Fund”? defined.

Sec. 160d.

(1) A person shall not do any of the following:

(a) Engage in conduct that violates section xxx of the Cemetery Regulation Act, 1968 PA 251.

(b) Conspire with one or more persons to commit a violation of section xxxx of the Cemetery Regulation Act, 1968 PA 251.

(2) A person who violates this section is guilty of a crime as follows:

(a) If xxxx [loss amount, etc.], the person is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$10,000.00, or both.

(b) If xxxx [failure or refusal to properly maintain trust account], the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$50,000.00, or both.

(c) After notification by the Cemetery Commissioner of [a violation], the person fails or refuses to correct or remedy a [trust fund deficiencies] [or remedy other violations] within 90 days after the date of notification, the person is guilty of a misdemeanor punishable by imprisonment for not more than 90 days or a fine of not more than \$10,000, or both.

(d) After a second notification by the Cemetery Commissioner of [a violation], the person fails or refuses to correct trust fund deficiencies within 180 days after the date of notification, the person is guilty of a felony punishable by imprisonment for not more than 10 years or a fine of not more than \$50,000.00, or both.

(3) It is not a violation of this section if:

(a) There is a Stipulated agreement between the person and the Cemetery Commissioner that extends the time period for compliance with the Cemetery Regulation Act, in which case the time periods contained in this Section shall then be calculated from the date of compliance contained in the Stipulated agreement.

(b) After investigation or audit by the Cemetery Commissioner or a law enforcement agency it was determined that another person committed the theft, embezzlement, etc. of trust monies.

(c)

(d) An order was issued by a court of competent jurisdiction upon petition and showing of good cause by a person for a delay in complying with an order of the Cemetery Commissioner.

(4) This section does not prohibit a person from being charged with, convicted of, or punished for any other violation of law that is committed by that person while violating this section.

(5) The term "person" in this Section means the same as a person defined in the Cemetery Regulation Act, 1968 PA 251, excluding a government agency. A "person" in this Section also means an individual who is a director, officer, member, or has another management role, or has a controlling interest in a legal entity operating a cemetery or any entity that has violated the Act.

(6) The term "controlling interest" in this Section means the same as defined in the Cemetery Regulation Act, 1968 PA 251.