



WCCA Legislative Successes

2007 - 2008 Wisconsin Legislative Session

During the 2007-08 Wisconsin legislative session, the WCCA worked on and helped pass the following legislation into law to benefit Association members and the cemetery industry as a whole:

1. 2007 WI Act 58 (AB 305) – The Final Rights Act

The new law, known as the ***Final Rights Act***, was approved by the Legislature and signed into law by Governor Doyle on March 5, 2008. Generally speaking, the law will ensure the wishes of individuals regarding final disposition are carried out after their death.

The law creates an *Authorization for Final Disposition*, a legal document that will allow individuals to express special instructions after death. The document can include directives – to be carried out by an appointed representative – on such matters as religious observances, graveside services and cremation vs. traditional burial.

In addition, 2007 WI Act 58 will do the following:

- Require the Department of Health and Family Services (DHFS) to prepare and provide an official *Authorization of Final Disposition* form to cemeteries, crematories and funeral homes.
- In the absence of a *Authorization of Final Disposition*, outline a priority list of individuals who may control the final disposition of a decedent's remains in the following order: A.) Surviving spouse; B.) Surviving children; C.) Surviving parent; D.) Surviving sibling; and 5.) Individual in the next degree of kinship.
- Require disagreements on issues related to final disposition of a decedent amongst individuals in the same priority class to be resolved in probate court.
- Provide civil and criminal immunity for cemeteries and crematories who: A.) Refuse to accept a decedent's remains if there is a disagreement on final disposition between individuals in the same priority class; and B.) In good faith carries out the directions of an individual who claims control of the decedent's disposition.

This new law not only provides long-overdue “rights” to the deceased, it legally protects cemeteries and crematories and creates a legal process to help ease the angst families often experience in making difficult decisions regarding final disposition.

2. Sales and Use Tax Exemption for Non-Profit Cemeteries

This important tax initiative, which was signed into law as part of the 2007-09 state budget bill in October 2007, creates a sales and use tax exemption for tangible personal property and services purchased by non-profit cemeteries. The tax exemption will go into effect on July 1, 2009.

3. 2007 WI Act 174 (SB 288) – Cemetery Registration & Consumer Protection Act

The new law, known as the ***Cemetery Registration & Consumer Protection Act***, was passed by the Legislature and signed into law by Governor Doyle on March 26, 2008. The law will broaden the regulatory scope of the Cemetery Board at the WI Department of Regulation and Licensing (DRL) and protect consumers from unscrupulous “fly-by-night” cemetery operators.

Two years ago, the WCCA was successful in creating the Cemetery Board at DRL. Prior to the Board's creation, there was virtually no state regulation over the cemetery industry. The Board, which is comprised of a majority of cemetery professionals, now oversees the regulation of Wisconsin cemeteries.

The Cemetery Registration & Consumer Protection Act will increase the role and responsibility of the Board in regulating **all** cemeteries in the state – excluding religious and municipal.

The Board, which currently regulates roughly 140 of the state's estimated 5,000 cemeteries, will now have the authority to help all cemeteries comply with state regulations. It will also protect consumers from any potential "bad actors" in the industry — such as those seen in Indiana, Tennessee and Michigan who embezzled millions of dollars in cemetery trust funds.

In an effort to improve oversight of the industry, the new law does the following:

- **Requires all cemeteries to file annual financial reports with the Cemetery Board, detailing balances as well as amounts deposited in and withdrawn from perpetual care trust funds and pre-need trust funds.**
- **Requires all cemeteries to deposit care funds and pre-need trust funds in accordance with state law.**
- **Requires all cemeteries to record the conveyance of all cemetery lots, including the date of sale and the name and address of the purchaser.**
- **Requires all cemeteries to seek Board approval to sell or encumber cemetery land.**

The new law also transfers several regulatory functions that previously resided with DRL over to the Cemetery Board.

4. 2007 WI Act 64 (SB 473) - The Scrap Metal Anti-Theft Act

The new law, known as the *Scrap Metal Anti-Theft Act*, received legislative approval and was signed into law by Governor Doyle on March 11, 2008. The law increases penalties for the sale of stolen scrap metal and imposes numerous new record keeping requirements on scrap metal dealers to help decrease the sale of stolen metal.

Due to the recent increase in the theft of cemetery items such as bronze vases and markers, the WCCA government affairs team worked with the authors of the bill to include a provision to better protect Wisconsin cemeteries and the families we serve.

Under the law, *a metal grave marker, sculpture, plaque or vase, if the item's appearance suggests the item has been obtained from a cemetery* would be considered a proprietary metal article and be subject to the law's increased penalties for the sale of stolen metal goods. Cemetery items would also be subject to the new record keeping requirements for the sale of scrap metal.

Under the new law, scrap metal dealers must maintain detailed records of metal article purchases that identify the seller and verify the seller is the lawful owner of the article. The law also requires a scrap metal dealer to retain the above-mentioned records for at least two years and make them available to law enforcement upon request.

Scrap metal dealers who violate the law are subject to monetary fines and/or imprisonment.