

funeral director and embalmer. That subsection also purports to prohibit any person other than a licensed funeral director and embalmer from executing a pre-need contract. However, because a pre-need contract by definition is one made by a licensed funeral director and embalmer, a person who is not a licensed funeral director and embalmer may make a similar contract without violating the prohibition.

After considering the exceptions to the definition of a "pre-need contract" that are enumerated in present Art. 43, § 366A(b), the Commission to Revise the Annotated Code: (1) has structured the definition of "pre-need contract" in § 6-101 of this title in terms of what the contract does rather than who makes it; (2) defines "seller" in this section as any person who makes a pre-need contract; and (3) limits those who are authorized to make a pre-need contract to licensed morticians.

Because of the scope of the goods and services that are included in the term "pre-need contract", the class of persons most affected under this revision are those associated with the practice of mortuary science. Because only a licensed mortician is authorized under this section and § 6-504 of this title to make a pre-need contract, any other person who is a "seller" (e.g., a funeral director, apprentice, surviving spouse) who does so incurs penalties under § 6-508 of this title.

Some other persons (e.g., casket salesmen) also may fall within these revised provisions. Therefore, the General Assembly may wish to adjust the definition of "seller" accordingly.

Section 6-102(b) of this title also should be considered in conjunction with this issue.

#### 6-405. CREMATION.

A LICENSEE WHO PERFORMS A CREMATION SHALL KEEP A RECORD OF EACH CREMATION AUTHORIZATION ON THE FORM REQUIRED BY THE BOARD.

REVISOR'S NOTE: This section is new language derived without substantive change from Art. 43, § 367A.

For a discussion of the penalty provision relating to this section, see the revisor's note to § 6-508 of this title.

For other provisions on cremation, see § 6-505 of this title and Art. 43, §§ 360A and 367B, 367C, and 367D of the Code.