

STATE OF NEW YORK

9839

IN ASSEMBLY

February 20, 2020

Introduced by M. of A. PAULIN -- read once and referred to the Committee on Corporations, Authorities and Commissions

AN ACT to amend the not-for-profit corporation law, in relation to the creation, operation, and duties of natural organic reduction facilities as cemetery corporations

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraphs (a), (m), (n) and (o) of section 1502 of the
2 not-for-profit corporation law, paragraph (a) as added by chapter 871 of
3 the laws of 1977, paragraphs (m), (n) and (o) as added by chapter 579 of
4 the laws of 2006, are amended and two new paragraphs (t) and (u) are
5 added to read as follows:

6 (a) The term "cemetery corporation" means any corporation formed under
7 a general or special law for the disposal or burial of deceased human
8 beings, by cremation, natural organic reduction or in a grave, mausoleum,
9 vault, columbarium or other receptacle but does not include a family
10 cemetery corporation or a private cemetery corporation.

11 (m) The term "holding facility" or "temporary storage facility" means
12 an area that (i) is designated for the retention of human remains prior
13 to cremation or natural organic reduction; (ii) complies with all appli-
14 cable public health laws, (iii) preserves the health and safety of the
15 crematory or natural organic reduction facility personnel; and (iv) is
16 secure from access by anyone other than authorized persons. The interior
17 of such facility shall not be visible from any area accessible to the
18 general public.

19 (n) The [~~term~~] terms "cremation permit" [~~means~~] and "natural organic
20 reduction permit" mean the burial and removal permit required pursuant
21 to section forty-one hundred forty-five of the public health law that is
22 annotated for disposition of the remains of a deceased human being by
23 cremation or natural organic reduction.

24 (o) The [~~term~~] terms "cremation authorization" [~~means~~] and "natural
25 organic reduction authorization" mean the crematory or natural organic
26 reduction form authorizing a cremation or natural organic reduction
27 which is signed by the next of kin or authorizing agent. This crematory

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 or natural organic reduction form must be a separate document and cannot
2 be a part of another form or document.

3 (t) The term "natural organic reduction" means the contained, acceler-
4 ated conversion of human remains to soil.

5 (u) The term "natural organic reduction facility" means a structure,
6 room, or other space in a building or real property where natural organ-
7 ic reduction of a human body occurs.

8 § 2. Section 1503 of the not-for-profit corporation law, as separately
9 amended by chapters 579 and 580 of the laws of 2006, is amended to read
10 as follows:

11 § 1503. Application.

12 (a) Except as otherwise provided in paragraph (b) of this section,
13 section fifteen hundred five-b, paragraph (c) of section fifteen hundred
14 seven, [~~and~~] paragraph (m) of section fifteen hundred ten, and section
15 fifteen hundred eighteen of this article does not apply to (1) a reli-
16 gious corporation, (2) a municipal corporation, (3) a cemetery corpo-
17 ration owning a cemetery operated, supervised or controlled by or in
18 connection with a religious corporation or (4) a cemetery belonging to a
19 religious or a municipal corporation, or operated, supervised or
20 controlled by or in connection with a religious corporation unless any
21 officer, member or employee of any such corporation shall receive or may
22 be lawfully entitled to receive any pecuniary profit from the operations
23 thereof, other than reasonable compensation for services in effecting
24 one or more of the purposes of such corporation or as proper benefici-
25 aries of its strictly charitable purposes or unless the organization of
26 any such corporation for any of its avowed purposes be a guise or
27 pretense for directly or indirectly making any other pecuniary profit
28 for such corporation, or for any of its officers, members or employees,
29 and unless any such corporation is not, in good faith, organized or
30 conducted exclusively for one or more of its stated purposes.

31 (b) All crematories or natural organic reduction facilities shall be
32 subject to inspection by the division of cemeteries. Upon inspection,
33 the crematory or natural organic reduction facility may be asked to
34 produce any and all records for the operation and maintenance of the
35 crematory or natural organic reduction facility. These records may
36 include but not be limited to cremation or natural organic reduction
37 authorizations, rules and regulations of the crematory or natural organ-
38 ic reduction facility, procedures as set forth in section fifteen
39 hundred seventeen of this article, and the written procedure of the
40 identification of remains.

41 § 3. The not-for-profit corporation law is amended by adding a new
42 section 1505-b to read as follows:

43 § 1505-b. Additional requirements for incorporation of natural organic
44 reduction facilities.

45 (a) Approval. A cemetery corporation seeking the approval to operate a
46 natural organic reduction facility shall submit for approval by the
47 cemetery board the following:

48 (1) a list of the directors, employees, and certificate holders of the
49 cemetery corporation;

50 (2) a certified survey of the site and location within the county it
51 will be situated;

52 (3) a business plan for the operation of the natural organic reduction
53 facility to include, but not be limited to, number of expected natural
54 organic reductions per year, number of natural organic reduction units,
55 manufacture, capital costs, financing, anticipated number of employees,
56 types of services provided, pricing thereof;

1 (4) a description of the impact of the proposed natural organic
2 reduction facility on other natural organic reduction facilities, if
3 any, within the county;

4 (5) plans, designs, and costs of any structures to be erected or
5 retrofitted for the natural organic reduction facility use; and

6 (6) a description of any approvals or permits required by state or
7 local law. No natural organic reduction facility shall be approved until
8 such other approvals or permits have been obtained.

9 (b) Further information. Within thirty-five days following receipt of
10 the information required by paragraph (a) of this section, the cemetery
11 board or the division of cemeteries may request from the cemetery corpo-
12 ration any additional information or documentation and technical assist-
13 ance deemed necessary to review such information. Such information shall
14 not be deemed complete until the requested additional information has
15 been received. If no such request is made, the submission shall be
16 deemed complete on the thirty-fifth day after its receipt by the divi-
17 sion of cemeteries.

18 (c) Determination. The cemetery board shall approve or deny the
19 proposed natural organic reduction facility within ninety days of the
20 completed submission.

21 (d) Notification. The cemetery board shall provide written notice of
22 its determination to the cemetery corporation. If a negative determi-
23 nation is made, such notice shall state the reasons therefor. Notice
24 shall be made by registered or certified mail addressed to the cemetery
25 corporation at its principal office.

26 § 4. Paragraph (c) of section 1508 of the not-for-profit corporation
27 law, as amended by chapter 579 of the laws of 2006, is amended to read
28 as follows:

29 (c) Cemetery payment for administration. To defray the expenses of
30 examination and administration, each cemetery corporation shall not
31 later than March fifteenth in each calendar year, pay to the cemetery
32 board the sum of three dollars per interment and cremation or natural
33 organic reduction in excess of fifteen interments [~~or~~], cremations, or
34 natural organic reductions for the preceding calendar year. No contrib-
35 ution shall be collected upon the interment of the [~~cremains~~] remains of
36 a deceased person where a contribution was collected upon cremation or
37 natural organic reduction.

38 § 5. Paragraph (c) of section 1510 of the not-for-profit corporation
39 law, as amended by chapter 579 of the laws of 2006, is amended to read
40 as follows:

41 (c) Record of burials, natural organic reductions or cremations. A
42 record shall be kept of every burial in the cemetery of a cemetery
43 corporation, showing the date of burial, the name, age, and place of
44 birth of the person buried, when these particulars can be conveniently
45 obtained, and the lot, plot, or part thereof, in which such burial was
46 made. A copy of such record, duly certified by the secretary of such
47 corporation, shall be furnished on demand and payment of such fees
48 therefor as are allowed the county clerk for certified copies of
49 records. Notwithstanding any other provision of this section, all ceme-
50 tery corporations which conduct cremations or natural organic reductions
51 shall maintain permanent records of the name of the deceased human
52 being, the funeral home from which the remains were received, the
53 receipt of delivery of the deceased human remains, the authorizing agent
54 for the cremation or natural organic reduction, and the manner of dispo-
55 sition of the [~~cremains~~] remains. Such records may be reviewed by the
56 division of cemeteries at any time.

1 § 6. The not-for-profit corporation law is amended by adding a new
2 section 1518 to read as follows:

3 § 1518. Natural organic reduction facility operations.

4 Cemetery corporations that operate a natural organic reduction facili-
5 ty shall have the following duties and obligations:

6 (a) Maintenance and privacy. (1) A natural organic reduction facility
7 shall be maintained in a clean, orderly, and sanitary manner, with
8 adequate ventilation and shall have a temporary storage area available
9 to store the remains of deceased human beings pending disposition by
10 natural organic reduction, the interior of which shall not be accessible
11 to the general public.

12 (2) Entrances and windows of the facility shall be maintained at all
13 times to secure privacy, including (i) doors shall be tightly closed and
14 rigid; (ii) windows shall be covered; and (iii) entrances shall be
15 locked and secured when not actively attended by authorized facility
16 personnel.

17 (b) Natural organic reduction process. (1) The natural organic
18 reduction process shall be conducted in privacy. No person except
19 authorized persons shall be admitted into the reduction area, holding
20 facility, or the temporary storage facility while the remains of
21 deceased human beings are being naturally organically reduced. Author-
22 ized persons, on admittance, shall comply with all rules of the cemetery
23 corporation and not infringe upon the privacy of the remains of deceased
24 human beings.

25 (2) The following are authorized persons: (i) licensed, registered
26 funeral directors, registered residents, and enrolled students of mortu-
27 ary science; (ii) officers and trustees of the cemetery corporation;
28 (iii) authorized employees or their authorized agents of the cemetery
29 corporation; (iv) public officers acting in the discharge of their
30 duties; (v) authorized instructors of funeral directing schools; (vi)
31 licensed physicians or nurses; and (vii) members of the immediate family
32 of the deceased and their authorized agents and designated represen-
33 tatives.

34 (c) Identification of deceased human beings. (1) No natural organic
35 reduction facility shall naturally organically reduce the remains of any
36 deceased human being without the accompanying natural organic reduction
37 permit, required pursuant to section forty-one hundred forty-five of the
38 public health law which permit shall constitute presumptive evidence of
39 the identity of the said remains. In addition, all natural organic
40 reduction facilities situated outside the city of New York, must comply
41 with paragraph (b) of subdivision two of section forty-one hundred
42 forty-five of the public health law pertaining to the receipt for the
43 deceased human being. From the time of such delivery to the natural
44 organic reduction facility, until the time the natural organic reduction
45 facility distributes the remains as directed, the facility shall be
46 responsible for the remains of the deceased human being. Further, a
47 natural organic reduction authorization form shall accompany the permit
48 required in section forty-one hundred forty-five of the public health
49 law. This form, provided or approved by the facility, shall be signed by
50 the next of kin or authorizing agent attesting to the permission for the
51 natural organic reduction of the deceased, and disclosing to the natural
52 organic reduction facility that such body does not contain a battery,
53 battery pack, power cell, radioactive implant, or radioactive device, if
54 any, and that these materials were removed prior to the natural organic
55 reduction process.

1 (2) Upon good cause being shown rebutting the presumption of the iden-
2 tity of such remains, the natural organic reduction shall not commence
3 until reasonable confirmation of the identity of the deceased human
4 being is made. This proof may be in the form of, but not limited to, a
5 signed affidavit from a licensed physician, a member of the family of
6 the deceased human being, the authorizing agent or a court order from
7 the state supreme court within the county of the cemetery corporation.
8 Such proof shall be provided by the authorizing agent.

9 (3) The facility shall have a written plan to assure that the iden-
10 tification established by the natural organic reduction permit accompa-
11 nies the remains of the deceased human being through the natural organic
12 reduction process and until the identity of the deceased is accurately
13 and legibly inscribed on the container in which the remains are tempo-
14 rarily placed.

15 (d) Opening of a container holding the remains of the deceased human
16 being. (1) The remains of a deceased human being shall be delivered to
17 the natural organic reduction facility in an alternative container or in
18 external wrappings sufficient to contain the remains and also designed
19 to fully decompose in the natural reduction process. Such alternative
20 container or external wrappings holding the remains of the deceased
21 human being shall not be opened after delivery to the natural organic
22 reduction facility unless there exists good cause to confirm the identi-
23 ty of the deceased, or to assure that no material is enclosed which
24 might cause injury to employees or damage to natural organic reduction
25 facility property, or upon reasonable demand by members of the immediate
26 family or the authorized agent.

27 (2) In such instances in which alternative container or wrappings are
28 opened after delivery to the natural organic reduction facility, such
29 action shall only be conducted by the licensed funeral director or
30 registered resident delivering the remains of the deceased human being
31 and a record shall be made, which shall include the reason for such
32 action, the signature of the person authorizing the opening thereof, and
33 the names of the person opening the container or wrappings and the
34 witness thereto, which shall be retained in the permanent file of the
35 natural organic reduction facility. The opening of the container or
36 wrapping shall be conducted in the presence of the witness and shall
37 comply with all rules and regulations intended to protect the health and
38 safety of natural organic reduction facility personnel.

39 (e) Ceremonial casket natural organic reduction disclosure. In those
40 instances in which the remains of deceased human beings are to be deliv-
41 ered to a natural organic reduction facility in a casket that is not to
42 be naturally organically reduced with the deceased, timely disclosure
43 thereof must be made by the person making the funeral arrangements to
44 the natural organic reduction facility that prior to natural organic
45 reduction the remains of the deceased human being shall be transferred
46 to an alternative container. Such signed acknowledgement of the author-
47 izing person, that the timely disclosure has been made, shall be
48 retained by the natural organic reduction facility in its permanent
49 records.

50 (f) Transferring remains. (1) The remains of a deceased human being
51 shall not be removed from the casket, alternative container, or external
52 wrappings in which it is delivered to the natural organic reduction
53 facility unless explicit, signed authorization is provided by the person
54 making funeral arrangements or by a public officer discharging his or
55 her statutory duty, which signed authorization shall be retained by the
56 natural organic reduction facility in its permanent records.

1 (2) When the remains of a deceased human being are to be transferred
2 to an alternative container, the transfer shall be conducted in privacy
3 with dignity and respect and by the licensed funeral director or regis-
4 tered resident who delivered those remains. The transferring operation
5 shall comply with all rules and regulations intended to protect the
6 health and safety of facility personnel.

7 (g) Commingling human remains. The natural organic reduction of
8 remains of more than one deceased human being in a reduction container
9 at any one time is unlawful, except upon the explicit, signed authori-
10 zation provided by the persons making funeral arrangements and the
11 signed approval of the natural organic reduction facility, which shall
12 be retained by the natural organic reduction facility in its permanent
13 records.

14 (h) Processing of remains. (1) Upon the completion of the natural
15 organic reduction of the remains of a deceased human being, the interior
16 of the natural organic reduction container shall be thoroughly swept or
17 otherwise cleaned so as to render the natural organic reduction contain-
18 er reasonably free of all matter. The contents thereof shall be placed
19 into an individual container and not commingled with other remains. The
20 natural organic reduction permit shall be attached to the individual
21 container preparatory to final processing.

22 (2) A magnet and sieve, or other appropriate method of separation, may
23 be used to divide the remains from unrecognizable incidental or foreign
24 material.

25 (3) The incidental and foreign material of the natural organic
26 reduction process shall be disposed of in a safe manner in compliance
27 with all sanitary rules and regulations as byproducts.

28 (4) The remains shall be pulverized until no single fragment is recog-
29 nizable as skeletal tissue.

30 (5) The pulverized remains shall be transferred to a container or to
31 multiple containers, if so requested in writing by the person making the
32 funeral arrangements for the natural organic reduction. Such container
33 or containers shall have inside dimensions of suitable size to contain
34 the remains of the person who was naturally organically reduced.

35 (6) The prescribed container or containers shall be accurately and
36 legibly labeled with the identification of the human being whose remains
37 are contained therein, in a manner acceptable to the division of ceme-
38 teries.

39 (i) Disposition of remains. The authorizing agent shall be responsible
40 for the final disposition of the remains. Disposition of remains result-
41 ing from the natural organic reduction process are not recoverable once
42 scattered or interred. Remains shall be disposed of by scattering them
43 in a designated scattering garden or area in a cemetery, or by prior
44 authorization by the cemetery corporation, by placing them in a grave,
45 crypt, or niche, or retrieval of the remains pursuant to prior authori-
46 zation by the authorizing agent or a person specifically designated by
47 the authorizing agent. Upon completion of the natural organic reduction
48 process, the cemetery corporation shall notify the authorizing agent and
49 funeral firm making such arrangements that the natural organic reduction
50 process has been completed and that the remains are prepared to be
51 disposed of in accordance with this paragraph. After disposition, the
52 cemetery corporation shall be discharged from any legal obligation or
53 liability concerning the remains. If, after a period of one hundred
54 twenty days from the date of the natural organic reduction, the author-
55 izing agent has not instructed the cemetery corporation to arrange for
56 the final disposition of the remains or claimed the remains, the ceme-

1 tery corporation may dispose of the remains in any manner permitted by
2 this section. The cemetery corporation, however, shall keep a permanent
3 record identifying the site of final disposition. The authorizing agent
4 shall be responsible for reimbursing the cemetery corporation for all
5 reasonable expenses incurred in disposing of the remains. Upon disposing
6 of the remains, the cemetery corporation shall be discharged from any
7 legal obligation or liability concerning the remains. Except with the
8 express written permission of the authorizing agent, no person shall
9 place remains of more than one person in the same temporary container or
10 urn.

11 (j) Natural organic reduction facility operation certification. Any
12 employee of a natural organic reduction whose function is to conduct the
13 daily operations of the cremation or natural organic reduction process
14 shall be certified by an organization approved by the division of ceme-
15 teries. Proof of such certification shall be posted in the natural
16 organic reduction facility and available for inspection at any time. Any
17 new employees of a natural organic reduction facility required to be
18 certified under this section shall be certified within one year of their
19 employment. Any employees of a natural organic reduction facility
20 required to be certified under this section and retained prior to the
21 effective date of this paragraph shall be certified within one year of
22 such effective date. Renewal of such certification shall be completed
23 every five years from the date of certification.

24 § 7. This act shall take effect on the ninetieth day after it shall
25 have become a law.