

STATE OF NEW YORK

7822

IN SENATE

February 25, 2020

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed 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, mausole-
9 um, 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

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

LBD14715-04-0

1 which is signed by the next of kin or authorizing agent. This crematory
2 or natural organic reduction form must be a separate document and cannot
3 be a part of another form or document.

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

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

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

12 § 1503. Application.

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

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

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

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

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

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

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

53 (3) a business plan for the operation of the natural organic reduction
54 facility to include, but not be limited to, number of expected natural
55 organic reductions per year, number of natural organic reduction units,

1 manufacture, capital costs, financing, anticipated number of employees,
2 types of services provided, pricing thereof;

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

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

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

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

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

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

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

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

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

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

sition of the [~~eremains~~] remains. Such records may be reviewed by the division of cemeteries at any time.

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

§ 1518. Natural organic reduction facility operations.

Cemetery corporations that operate a natural organic reduction facility shall have the following duties and obligations:

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

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

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

(2) The following are authorized persons: (i) licensed, registered funeral directors, registered residents, and enrolled students of mortuary science; (ii) officers and trustees of the cemetery corporation; (iii) authorized employees or their authorized agents of the cemetery corporation; (iv) public officers acting in the discharge of their duties; (v) authorized instructors of funeral directing schools; (vi) licensed physicians or nurses; and (vii) members of the immediate family of the deceased and their authorized agents and designated representatives.

(c) Identification of deceased human beings. (1) No natural organic reduction facility shall naturally organically reduce the remains of any deceased human being without the accompanying natural organic reduction permit, required pursuant to section forty-one hundred forty-five of the public health law which permit shall constitute presumptive evidence of the identity of the said remains. In addition, all natural organic reduction facilities situated outside the city of New York, must comply with paragraph (b) of subdivision two of section forty-one hundred forty-five of the public health law pertaining to the receipt for the deceased human being. From the time of such delivery to the natural organic reduction facility, until the time the natural organic reduction facility distributes the remains as directed, the facility shall be responsible for the remains of the deceased human being. Further, a natural organic reduction authorization form shall accompany the permit required in section forty-one hundred forty-five of the public health law. This form, provided or approved by the facility, shall be signed by the next of kin or authorizing agent attesting to the permission for the natural organic reduction of the deceased, and disclosing to the natural organic reduction facility that such body does not contain a battery, battery pack, power cell, radioactive implant, or radioactive device, if

1 any, and that these materials were removed prior to the natural organic
2 reduction process.

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

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

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

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

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

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

1 her statutory duty, which signed authorization shall be retained by the
2 natural organic reduction facility in its permanent records.

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

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

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

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

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

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

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

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

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

1 izing agent has not instructed the cemetery corporation to arrange for
2 the final disposition of the remains or claimed the remains, the ceme-
3 tery corporation may dispose of the remains in any manner permitted by
4 this section. The cemetery corporation, however, shall keep a permanent
5 record identifying the site of final disposition. The authorizing agent
6 shall be responsible for reimbursing the cemetery corporation for all
7 reasonable expenses incurred in disposing of the remains. Upon disposing
8 of the remains, the cemetery corporation shall be discharged from any
9 legal obligation or liability concerning the remains. Except with the
10 express written permission of the authorizing agent, no person shall
11 place remains of more than one person in the same temporary container or
12 urn.

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

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