STATE OF NEW YORK

1333

2023-2024 Regular Sessions

IN SENATE

January 11, 2023

Introduced by Sen. COMRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the not-for-profit corporation law and the public health law, in relation to clarifying provisions related to the creation, operation, and duties of natural organic reduction facilities as cemetery corporations; and to amend a chapter of the laws of 2022 amending the not-for-profit corporation law, relating to the creation, operation, and duties of natural organic reduction facilities as cemetery corporations, as proposed in legislative bills numbers S. 5535 and A. 382, in relation to the effectiveness thereof

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

Section 1. Paragraph (b) of section 1503 of the not-for-profit corporation law, as amended by a chapter of the laws of 2022 amending the not-for-profit corporation law relating to the creation, operation, and duties of natural organic reduction facilities as cemetery corporations, as proposed in legislative bills numbers S. 5535 and A. 382, is amended to read as follows:

(b) All crematories or natural organic reduction facilities shall be subject to inspection by the division of cemeteries. Upon inspection, the crematory or natural organic reduction facility may be asked to produce any and all records for the operation and maintenance of the crematory or natural organic reduction facility. These records may include but not be limited to cremation or natural organic reduction authorizations, rules and regulations of the crematory or natural organic reduction facility, procedures as set forth in section fifteen hundred seventeen of this article**, or section fifteen hundred eighteen of this article, as applicable**, and the written procedure of the identification of remains.

§ 2. Subparagraph 4 of paragraph (a) of section 1505-b of the not-for-profit corporation law, as added by a chapter of the laws of 2022 amend-

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

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ing the not-for-profit corporation law relating to the creation, operation, and duties of natural organic reduction facilities as cemetery corporations, as proposed in legislative bills numbers S. 5535 and A. 382, is amended to read as follows:

(4) a description of the impact of the proposed natural organic reduction facility on other natural organic reduction facilities, if any, within the county **or impact on the surrounding community**;

§ 3. Subparagraph 3 of paragraph (c) and paragraphs (e), (f), (i) and (j) of section 1518 of the not-for-profit corporation law, as added by a chapter of the laws of 2022 amending the not-for-profit corporation law relating to the creation, operation, and duties of natural organic reduction facilities as cemetery corporations, as proposed in legislative bills numbers S. 5535 and A. 382, are amended and a new paragraph (k) is added to read as follows:

(3) The facility shall have a written plan to assure that the identification established by the natural organic reduction permit accompanies the remains of the deceased human being through the natural organic reduction process and until the identity of the deceased is accurately and legibly inscribed on the container in which the remains are [~~temporarily~~] placed.

(e) Ceremonial casket natural organic reduction disclosure. In those instances in which the remains of deceased human beings are to be delivered to a natural organic reduction facility in a casket **or other container** that is not to be naturally organically reduced with the deceased, timely disclosure thereof must be made by the person making the funeral arrangements to the natural organic reduction facility that prior to natural organic reduction the remains of the deceased human being shall be transferred to [~~an alternative~~] **a** container **or in external wrappings sufficient to contain the remains and also designed to fully decompose in the natural reduction process**. Such signed acknowledgement of the authorizing person, that the timely disclosure has been made, shall be retained by the natural organic reduction facility in its permanent records.

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

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

(i) Disposition of remains. The authorizing agent shall be responsible for the final disposition of the remains. Disposition of remains resulting from the natural organic reduction process are not recoverable once scattered or interred. Remains shall be disposed of by scattering them in a designated scattering garden or area in a cemetery, or by prior authorization by the cemetery corporation, by placing them in a grave, crypt, or niche, or retrieval of the remains pursuant to prior authorization by the authorizing agent or a person specifically designated by the authorizing agent. Upon completion of the natural organic reduction process, the cemetery corporation shall notify the authorizing agent and

funeral firm making such arrangements that the natural organic reduction process has been completed and that the remains are prepared to be disposed of in accordance with this paragraph**. Upon receipt of the remains, the individual receiving them may transport them in any manner in the state without a permit, and may dispose of them in accordance with this section**. After disposition, the cemetery corporation shall be discharged from any legal obligation or liability **to deliver the remains to the authorizing agent or any other person enumerated under paragraph (a) of subdivision two of section forty-two hundred one of the public health law** concerning the remains. If, after a period of one hundred twenty days from the date of the natural organic reduction, the authorizing agent has not instructed the cemetery corporation to arrange for the final disposition of the remains or claimed the remains, the cemetery corporation may dispose of the remains in any manner permitted by this section. The cemetery corporation, however, shall keep a permanent record identifying the site of final disposition. The authorizing agent shall be responsible for reimbursing the cemetery corporation for all reasonable expenses incurred in disposing of the remains. Upon disposing of the remains, the cemetery corporation shall be discharged from any legal obligation or liability **to deliver the remains to the authorizing agent or any other person enumerated under paragraph (a) of subdivision two of section forty-two hundred one of the public health law** concerning the remains. Except with the express written permission of the authorizing agent, no person shall place remains of more than one person in the same temporary container or urn.

(j) Natural organic reduction facility operation certification. Any employee of a natural organic reduction **facility** whose function is to conduct the daily operations of the cremation or natural organic reduction process shall be certified by an organization approved by the division of cemeteries. Proof of such certification shall be posted in the natural organic reduction facility and available for inspection at any time. Any new employees of a natural organic reduction facility required to be certified under this section shall be certified within one year of their employment. Any employees of a natural organic reduction facility required to be certified under this section and retained prior to the effective date of this paragraph shall be certified within one year of such effective date. Renewal of such certification shall be completed every five years from the date of certification.

(k) The cemetery board, in consultation with the department of health, the department of environmental conservation, and any other state agency deemed necessary, may promulgate rules and regulations consistent with law to effectuate the provisions of this section.

§ 4. Paragraph (d) of section 1502 of the not-for-profit corporation law, as added by chapter 871 of the laws of 1977, is amended to read as follows:

(d) A public mausoleum, crematory**, natural organic reduction facility** or columbarium shall be included within the term "cemetery".

§ 5. Subdivisions 1, 3 and 5 of section 4145 of the public health law are amended to read as follows:

1. No person in charge of any premises on which interments, cremations**, natural organic reductions** or other disposition of the body of a deceased person are made shall inter or permit the interment or other disposition of any body unless it is accompanied by a burial, cremation**, natural organic reduction** or transit permit, as provided in this article.

3. The person in charge of the place of burial or other disposition shall endorse upon the permit, the date of interment**, natural organic reduction**, or cremation or other disposition over his signature, and shall return all permits so endorsed to the registrar of his district within seven days after the date of interment, cremation**, natural organic reduction,** or other disposition.

5. The person in charge of the place of burial, cremation**, natural organic reduction**, or other disposition shall keep a record of all bodies interred or otherwise disposed of on the premises under his charge, in each case stating the name of each deceased person, place of death, date of burial or disposal, and name and address of the funeral director or undertaker, which record shall at all time be open to official inspection.

§ 6. Paragraph (b) of subdivision 2 of section 4145 of the public health law, as amended by chapter 198 of the laws of 2005, is amended to read as follows:

(b) Any person or other entity owning, operating, managing, or designated to receive the body of a deceased person at a place of burial, cremation**, natural organic reduction**, or other final disposition in this state, who receives the body of a deceased person, shall provide a receipt for the body to the funeral director, undertaker or registered resident who delivered such body. Each receipt shall (i) be endorsed by both such person and the funeral director, undertaker or registered resident, (ii) indicate the date the body was delivered, (iii) include the name of the funeral director, undertaker or registered resident delivering the body and the registration number of such funeral director, undertaker or registered resident, (iv) include the name of the registered funeral firm the funeral director, undertaker or registered resident represents, (v) include the name of the deceased person as it appears on the burial, cremation**, natural organic reduction**, or transit permit, and (vi) include the name of the owner, operator, manager, or person in charge of the place of burial, cremation**, natural organic reduction**, or other final disposition who received the body of the deceased person. A copy of such receipt shall be retained by the owner, operator, manager, or person in charge of the place of burial, cremation**, natural organic reduction**, or other final disposition for a period of not less than four years, and shall be made available for inspection by the division of cemeteries during normal business hours. The original copy of every such receipt shall be retained by the licensed funeral firm for a period of not less than four years pursuant to the rules and regulations of the department governing the maintenance of records.

§ 7. Subdivision 1 of section 4200 of the public health law is amended to read as follows:

1. Except in the cases in which a right to dissect it is expressly conferred by law, every body of a deceased person, within this state, shall be decently buried**, naturally organically reduced,** or incinerated within a reasonable time after death.

§ 8. Paragraph (b) of subdivision 1 of section 4201 of the public health law, as amended by chapter 76 of the laws of 2006, is amended to read as follows:

(b) "Disposition" means the care, disposal, transportation, burial, cremation**, natural organic reduction** or embalming of the body of a deceased person, and associated measures.

§ 9. Subdivision 1 of section 4201 of the public health law is amended by adding a new paragraph (c-1) to read as follows:

(c-1) "Natural organic reduction" means the contained, accelerated conversion of human remains to soil.

§ 10. Paragraph (d) of subdivision 2 of section 4201 of the public health law, as amended by chapter 76 of the laws of 2006, is amended to read as follows:

(d) No funeral director, undertaker, embalmer or no person with an interest in, or who is an employee of any funeral firm, cemetery organization or business operating a crematory**, natural organic reduction facility**, columbarium or any other business, who also controls the disposition of remains in accordance with this section, shall receive compensation or otherwise receive financial benefit for disposing of the remains of a decedent.

§ 11. Subdivision 7 of section 4201 of the public health law, as amended by chapter 76 of the laws of 2006, is amended to read as follows:

7. No cemetery organization, business operating a crematory**, natural organic reduction facility,** or columbarium, funeral director, undertaker, embalmer, or funeral firm shall be held liable for actions taken reasonably and in good faith to carry out the written directions of a decedent as stated in a will or in a written instrument executed pursuant to this section. No cemetery organization, business operating a crematory**, natural organic reduction facility,** or columbarium, funeral director, undertaker, embalmer or funeral firm shall be held liable for actions taken reasonably and in good faith to carry out the directions of a person who represents that he or she is entitled to control of the disposition of remains, provided that such action is taken only after requesting and receiving written statement that such person:

(a) is the designated agent of the decedent designated in a will or written instrument executed pursuant to this section; or

(b) that he or she has no knowledge that the decedent executed a written instrument pursuant to this section or a will containing directions for the disposition of his or her remains and that such person is the person having priority under subdivision two of this section.

§ 12. Subdivisions 1, 2 and 4 of section 4202 of the public health law, subdivision 1 as added by chapter 903 of the laws of 1981, subdivision 2 as added by chapter 665 of the laws of 1968 and as renumbered by chapter 903 of the laws of 1981, and subdivision 4 as amended by chapter 91 of the laws of 1987, are amended to read as follows:

1. Every body delivered to a cemetery for cremation**, or natural organic reduction,** shall be accompanied by a statement from a physician, coroner, or medical examiner certifying that such body does not contain a battery or power cell. The person in charge of a cemetery may refuse to cremate **or naturally organically reduce** a body unless accompanied by such statement.

2. Cremated remains means human remains after incineration in a crematory**. Naturally organically reduced remains means human remains that have been naturally organically reduced to soil**.

4. At the time of the arrangement for a funeral performed by any undertaker or funeral director, the person contracting for funeral services shall designate his intentions with respect to the disposition of the remains of the deceased in a signed declaration of intent on a form as designated by the department which shall be provided by and retained by the undertaker. Every undertaker, administrator, executor, authorized representative of a deceased person, corporation, company or association, or other person having in his or its lawful possession cremated **or naturally organically reduced** remains, except such remains

committed to his or its care for permanent interment, which remains shall not have been claimed by a relative or friend of the deceased person within one hundred twenty days from the date of cremation **or natural organic reduction**, may dispose of such remains by placement in a tomb, mausoleum, crypt, niche in a columbarium, burial in a cemetery, or scattering of the remains at sea or by otherwise disposing of such remains as provided by rule of the department. A record of such disposition shall be made and kept by the person making such disposition. Upon disposing of such remains in the manner prescribed above, such person shall be discharged from any legal obligation or liability **to the authorizing agent or any other person enumerated under paragraph (a) of subdivision two of section forty-two hundred one of this title** in relation to such remains.

§ 13. The section heading of section 4203 of the public health law, as added by chapter 444 of the laws of 2010, is amended to read as follows:

Cremated **or naturally organically reduced** remains of a veteran; disposition.

§ 14. Paragraph (e) of subdivision 1 of section 4203 of the public health law, as added by chapter 444 of the laws of 2010, is amended to read as follows:

(e) "disposition" means disposal of cremated **or naturally organically reduced** remains by placement in a tomb, mausoleum, crypt, niche in a columbarium or burial in a cemetery. Provided, however, for the purpose of this section the term "disposition" shall not include the scattering of cremated **or naturally organically reduced** remains.

§ 15. Subdivisions 2, 5, 6, 7 and 8 of section 4203 of the public health law, as added by chapter 444 of the laws of 2010, are amended to read as follows:

2. A funeral director, undertaker or funeral firm which has held in its possession cremated **or naturally organically reduced** remains for more than one hundred twenty days from the date of cremation **or natural organic reduction** may, in accordance with the provisions of this section, determine if such cremated **or naturally organically reduced** remains are those of a veteran, and if so, may dispose of such remains as provided in this section.

5. The funeral director, undertaker, funeral firm or veterans' service organization notwithstanding any law to the contrary, upon:

(a) disposing of cremated **or naturally organically reduced** remains in accordance with the provisions of this section, shall be held harmless for any costs or damages, except if there is gross negligence or willful misconduct; and

(b) shall be discharged from any legal obligation or liability concerning the cremated **or naturally organically reduced** remains.

6. The estate of the decedent shall be responsible for reimbursing a funeral director, undertaker, funeral firm or veterans' service organization for all reasonable expenses incurred in relation to the disposition of such cremated **or naturally organically reduced** remains.

7. A funeral director, undertaker or funeral firm shall establish and maintain a record identifying the veterans' service organization receiving the cremated **or naturally organically reduced** remains and the site designated for final disposition of the cremated **or naturally organically reduced** remains.

8. Nothing in this section shall require a funeral director, undertaker or funeral firm to determine or seek others to determine that an individual's cremated **or naturally organically reduced** remains are those of a veteran if the funeral director, undertaker or funeral firm was

informed by the person in control of disposition that such individual was not a veteran, or to relinquish possession of such cremated **or naturally organically reduced** remains to a veterans' service organization if the funeral director, undertaker or funeral firm was instructed by such person in control, or had a reasonable belief, that the decedent did not desire any funeral or burial-related services or ceremonies recognizing such decedent's service as a veteran.

§ 16. Paragraph (a) of subdivision 3 of section 4203 of the public health law, as added by chapter 444 of the laws of 2010, is amended to read as follows:

(a) Notwithstanding any law or regulation to the contrary, nothing in this section shall prevent a funeral director, undertaker or funeral firm from sharing information with the United States department of veterans affairs (VA), a local veterans' service agency, a veterans' service organization, a national cemetery, or county veterans cemetery for the purpose of determining whether the cremated **or naturally organically reduced** remains are those of a veteran.

§ 17. Paragraph (a) of subdivision 4 of section 4203 of the public health law, as added by chapter 444 of the laws of 2010, is amended to read as follows:

(a) Should a funeral director, undertaker or funeral firm ascertain the cremated **or naturally organically reduced** remains in its possession are those of a veteran, and they have not been instructed by the person in control of the disposition of the decedent to arrange for the final disposal or delivery of the cremated **or naturally organically reduced** remains, the funeral director, undertaker or funeral firm may dispose of the cremated **or naturally organically reduced** remains or relinquish possession of the cremated **or naturally organically reduced** remains to a veterans' service organization.

§ 18. Section 7 of a chapter of the laws of 2022 amending the not-for-profit corporation law relating to the creation, operation, and duties of natural organic reduction facilities as cemetery corporations, as proposed in legislative bills numbers S. 5535 and A. 382, is amended to read as follows:

§ 7. This act shall take effect on the [~~ninetieth~~] **one hundred eightieth** day after it shall have become a law.

§ 19. This act shall take effect immediately, provided however, that sections one, two, three, four, five, six, seven, eight, nine, ten, eleven, twelve, thirteen, fourteen, fifteen, sixteen and seventeen of this act shall take effect on the same date and in the same manner as a chapter of the laws of 2022 amending the not-for-profit corporation law relating to the creation, operation, and duties of natural organic reduction facilities as cemetery corporations, as proposed in legislative bills numbers S. 5535 and A. 382, takes effect.