

STATE OF MAINE

—
IN THE YEAR OF OUR LORD
TWO THOUSAND TWENTY-FOUR

—
H.P. 341 - L.D. 536

**An Act to Provide Natural Organic Reduction Facilities for Maine Residents
for the Conversion of Human Remains to Soil**

Be it enacted by the People of the State of Maine as follows:

Sec. 1. 13 MRSA §1031-A is enacted to read:

§1031-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Natural organic reduction. "Natural organic reduction" means the contained accelerated conversion of human remains to soil.

2. Natural organic reduction facility. "Natural organic reduction facility" means a building or structure or a room or other space in a building or structure or real property where natural organic reduction is facilitated and occurs.

Sec. 2. 13 MRSA §1032 is amended to read:

§1032. Disposal of bodies

Except as otherwise provided by law, or in case of a dead body being rightfully carried through or removed from the State for the purpose of burial or disposition elsewhere, every dead body of a human being dying within the State and the remains of any body after dissection therein ~~shall~~ must be decently buried, entombed in a mausoleum, vault or tomb, ~~or cremated or subjected to natural organic reduction~~ within a reasonable time after death. The permanent disposition of such bodies or remains ~~shall~~ must be by interment in the earth, or deposit in a chamber, vault or tomb of a cemetery owned, maintained and operated in accordance with the laws of this State, by deposit in a crypt of a mausoleum, or by cremation ~~or natural organic reduction~~. The remains of a human body after cremation ~~or natural organic reduction~~ may be deposited in a niche of a columbarium or a crypt of a mausoleum, ~~scattered in an area of a cemetery~~, buried or disposed of in any manner not contrary to law. ~~No~~ A deposit of the bodies or remains of the human dead ~~shall~~ may not be made in a single chamber, vault or tomb partly above and partly below the natural surface of the ground, unless the part thereof below such surface is of a permanent character, constructed of materials capable of withstanding extreme climatic conditions,

waterproof and ~~air-tight~~ airtight, and capable of being sealed permanently to prevent all escape of effluvia, and unless the part thereof above the natural surface of the ground is constructed of natural stone of a standard not less than that required by the United States Government for monuments erected in national cemeteries, or durability sufficient to withstand all conditions of weather.

Sec. 3. 13 MRSA §1035, as amended by PL 2019, c. 113, Pt. C, §25, is further amended to read:

§1035. Penalties

Except as otherwise provided in this chapter, a person who fails to comply with or violates any of the provisions of this chapter in respect to the establishment, maintenance or operation of a cemetery, community mausoleum, crematory, natural organic reduction facility or columbarium or to the disposal of dead human bodies commits a Class E crime except that, notwithstanding Title 17-A, sections 1704 and 1705, the fine may not be less than \$100 or more than \$500.

Sec. 4. 13 MRSA §1101-A, sub-§2, as enacted by PL 2003, c. 421, §1, is amended to read:

2. Columbarium. "Columbarium" means a structure or room or space in a mausoleum or other building containing niches or recesses for disposition of cremated human remains or human remains that have been subjected to natural organic reduction.

Sec. 5. 13 MRSA §1265, as enacted by PL 1995, c. 474, §1, is amended to read:

§1265. Tangible personal property

Upon written request and payment of any reasonable out-of-pocket expenses, a cemetery ~~or~~, crematory or natural organic reduction facility shall deliver to a person, the person's attorney-in-fact or the person's personal representative any item of tangible personal property purchased by that person but remaining in the possession of the cemetery ~~or~~, crematory or natural organic reduction facility.

Sec. 6. 13 MRSA §1266, as enacted by PL 1995, c. 474, §1, is amended to read:

§1266. Solicitation of cemetery or crematory or other services or property

Uninvited telephone or door-to-door solicitations for crematory ~~or~~, cemetery or natural organic reduction facility services or property are prohibited. This section may not be construed to limit the raising of funds for capital improvements as long as those funds are not raised through the purchase of cemetery ~~or~~, crematory or natural organic reduction facility services or property. Uninvited solicitations may not be construed to include solicitations resulting from uninvited good-faith personal referrals from individuals purchasing services or property from a cemetery ~~or~~, crematory or natural organic reduction facility.

Sec. 7. 13 MRSA §1303, 2nd ¶ is amended to read:

Every such cemetery ~~shall~~ must be located in accordance with statutes already in force and effect, and only after consent for such location has been obtained from the municipality or other political subdivision where the same is proposed to be located, as well as from the ~~Bureau of Health~~ Department of Health and Human Services. ~~No~~ A cemetery, community mausoleum, crematory, natural organic reduction facility or columbarium hereafter

established ~~shall~~ may not be maintained or operated for the purpose of private profit or gain, either directly or indirectly, to any director, officer or member of the cemetery association or other agency owning, maintaining or operating the same, or of any holding company or development company employed to develop, build and dispose of the same. A cemetery lawfully established prior to July 24, 1937 may continue to be owned, maintained and operated under the form of organization adopted therefor. Any corporation organized prior to July 24, 1937 ~~which~~ that is authorized or empowered to own, construct, maintain or operate cemeteries or burial grounds may lawfully own, construct, maintain or operate mausoleums, crematories or columbaria in connection therewith, in accordance with the laws existing and effective up to the time of July 24, 1937.

Sec. 8. 13 MRSA §1304 is amended to read:

§1304. Sales for speculation or investment

The sale of cemetery lots and plots, or the sale of crypts in a community mausoleum or niches in a columbarium for speculative or financial investment purposes, or the conveyance of any portion of a cemetery already dedicated to burial purposes as security for debt, is prohibited. Every such conveyance, whether made by a person or by a cemetery association, or by a company or association owning and operating a community mausoleum, crematory, natural organic reduction facility or columbarium, or by any holding, development or subsidiary company, ~~shall be~~ is void and of no effect. Whoever makes or attempts to make a sale or conveyance contrary to this section ~~shall be guilty of a misdemeanor and must be~~ is punished as provided in section 1035.

Sec. 9. 22 MRSA §2841-A is enacted to read:

§2841-A. Definitions

As used in this chapter, unless the context otherwise indicates, the following terms have the following meanings.

1. Natural organic reduction. "Natural organic reduction" means the contained accelerated conversion of human remains to soil.

2. Natural organic reduction facility. "Natural organic reduction facility" means a building or structure or a room or other space in a building or structure or real property where natural organic reduction is facilitated and occurs.

Sec. 10. 22 MRSA §2843, first ¶, as amended by PL 2009, c. 601, §27, is further amended to read:

Except as authorized by the department, a dead human body may not be buried, cremated, subjected to natural organic reduction or otherwise disposed of or removed from the State until a funeral director or other authorized person in charge of the disposition of the dead human body or its removal from the State has obtained a permit from the State Registrar of Vital Statistics or the clerk of the municipality where death occurred or where the establishment of a funeral director having custody of the dead human body is located as specified by department rule. The permit is sufficient authority for final disposition in any place where dead human bodies are disposed of in this State, as long as the requirements of Title 32, ~~section~~ sections 1405 and 2900-A are met in appropriate cases. The permit may not be issued to anyone other than a funeral director until the state registrar or the clerk of the municipality receives a medical certificate that has been signed by a

physician or a medical examiner that indicates that the physician or medical examiner has personally examined the body after death. A permit must also be issued if a nurse practitioner or physician assistant has signed the medical certificate indicating that the nurse practitioner or physician assistant has knowledge of the deceased's recent medical condition or was in charge of the deceased's care and that the nurse practitioner or physician assistant has personally examined the body after death. The authorized person may transport a dead human body only upon receipt of this permit.

Sec. 11. 22 MRSA §2843, 2nd ¶, as amended by PL 2009, c. 601, §27, is further amended to read:

The State Registrar of Vital Statistics or a municipal clerk may issue a permit for final disposition by cremation, burial at sea, use by medical science, natural organic reduction or removal from the State only upon receipt of a certificate of ~~release~~ by a duly appointed medicolegal death investigator or medical examiner as specified in Title 32, section 1405 or section 2900-A, subsection 8.

Sec. 12. 22 MRSA §2843, sub-§3, as amended by PL 2013, c. 20, §1, is further amended to read:

3. Permit for burial. The person in charge of each burying ground ~~or~~ crematory or natural organic reduction facility in this State shall endorse, and provide the date the body was disposed of on, each such permit with which that person is presented; and return it to the State Registrar of Vital Statistics or to the clerk of the municipality in which such burying ground ~~or~~ crematory or facility is located within 7 days after the date of disposition. If there is no person in charge of the burying ground, an official of the municipality in which the burying ground is located shall endorse, and provide the date the body was disposed of on, each such permit; and present it to the State Registrar of Vital Statistics or the clerk of the municipality. The funeral director or authorized person shall present a copy of each permit, after endorsement, to the State Registrar of Vital Statistics or the clerk of the municipality where death occurred and to the clerk who issued the permit.

Sec. 13. 22 MRSA §2843, sub-§3-A, as amended by PL 2019, c. 257, §1, is further amended to read:

3-A. Authorization for burial of cremated or other remains in public burying ground. The State Registrar of Vital Statistics shall provide an authorization to be used for the purposes of this subsection. If ~~cremated~~ human remains that have been cremated or subjected to natural organic reduction are buried in a public burying ground in the State, the person in charge of the public burying ground shall endorse and record the date the ~~cremated~~ remains were buried on an authorization for the remains and return the authorization to the State Registrar of Vital Statistics or to the clerk of the municipality in which the public burying ground is located within 7 days after the ~~cremated~~ remains were buried. If there is no person in charge of the public burying ground, an official of the municipality in which the public burying ground is located shall endorse and record the date the ~~cremated~~ remains were buried on the authorization and present the authorization to the State Registrar of Vital Statistics or the clerk of the municipality. If an authorization is not returned to the State Registrar of Vital Statistics within 7 days after ~~cremated~~ remains were buried, the funeral director or authorized person may present a copy of the authorization, if the authorization has been endorsed, to the State Registrar of Vital

Statistics or the clerk of the municipality where death occurred and to the clerk who issued the authorization.

For purposes of this subsection, unless the context otherwise indicates, the following terms have the following meanings.

A. "Authorization" means the form or electronic process prescribed and furnished by the State Registrar of Vital Statistics for the purpose of recording the consent of an authorized person for the burial or removal of ~~cremated~~ human remains that have been cremated or subjected to natural organic reduction in a public burying ground as specified by department rule.

B. "Burial" means all manner of dispersal or deposit in or on the ground or in a structure.

C. "Public burying ground" has the same meaning as in Title 13, section 1101-A, subsection 4.

Sec. 14. 22 MRSA §2843-A, sub-§2, as repealed and replaced by PL 2017, c. 475, Pt. A, §31, is amended by amending the 4th blocked paragraph to read:

The remains or a dead body is considered abandoned if no one takes custody and control of the remains or dead body for a period of 15 days. A funeral director or practitioner of funeral service who has physical possession of abandoned remains or an abandoned dead body may bury ~~or~~, cremate or subject to natural organic reduction the remains or dead body. The funeral director or practitioner of funeral service may embalm or refrigerate abandoned remains or an abandoned dead body without authorization. A certificate of abandonment that indicates the means of disposition must be filed in the municipality where the death occurred.

Sec. 15. 22 MRSA §2843-A, sub-§10, as amended by PL 2017, c. 101, §3, is further amended to read:

10. Funeral director or practitioner of funeral service. The following provisions apply to the actions and liability of a funeral director or practitioner of funeral service, cemeteries ~~and~~, crematories and natural organic reduction facilities and their employees.

A. If there is a dispute regarding custody and control, a funeral director or practitioner of funeral service may refuse to accept the remains or dead body, inter or otherwise dispose of the remains or dead body or complete funeral arrangements until the funeral director or practitioner of funeral service is provided with a court order under subsection 4 or a written agreement of the person who has custody and control.

B. If there is a dispute regarding custody and control, pending a court determination under subsection 4 a funeral director or practitioner of funeral service who has physical possession of the remains or a dead body may embalm or refrigerate and shelter the remains or a dead body and may bill the estate of the subject for those costs, plus attorney's fees and court costs.

C. A person who signs a statement of funeral goods and services; or a cremation or natural organic reduction authorization form or other authorization for disposition of the remains or a dead body is deemed to warrant the truthfulness of the facts set forth in the document, including but not limited to the existence of custody and control and the identity of the subject.

D. A funeral director or practitioner of funeral service, cemetery, natural organic reduction facility or crematory may rely on a statement of funeral goods and services; or a cremation or natural organic reduction authorization form or other authorization signed by a person who has custody and control of the remains or a dead body and may carry out the instructions provided for in the statement of funeral goods and services or on the form or authorization unless the funeral director or practitioner of funeral service, cemetery, natural organic reduction facility or crematory knows of objections from another person.

E. A funeral director or practitioner of funeral service, cemetery, natural organic reduction facility or crematory is not required to independently investigate custody and control of the remains or a dead body or who is next of kin.

F. Upon cremation or natural organic reduction of the remains or dead body, the crematory or natural organic reduction facility shall prepare a certificate of cremation or natural organic reduction signed and dated by the person in charge of the cremation or natural organic reduction indicating the date of cremation or natural organic reduction and the identity of the ~~cremated~~ remains or dead body as identified by the funeral director or practitioner of funeral service or the cremation or natural organic reduction authorization form, including the deceased person's full name, date and place of death, gender and veteran status. The crematory or natural organic reduction facility shall provide the certificate of cremation or natural organic reduction to the funeral director or practitioner of funeral service or the person who has custody and control of the remains or dead body.

Sec. 16. 22 MRSA §2883, 3rd ¶, as enacted by PL 2001, c. 386, §5, is amended to read:

As used in this section, "burial" includes cremation or natural organic reduction as defined in section 2841-A, subsection 1 and burial of the ~~cremated~~ remains of the body.

Sec. 17. 22 MRSA §2886, as corrected by RR 2021, c. 2, Pt. B, §147, is amended to read:

§2886. Bond for proper disposal; ~~traffie~~ trafficking outside of State

A school, college, university, recognized medical school in New England; or physician or surgeon may not receive a body until a bond is given to the Treasurer of State by the physician or surgeon, or by and in behalf of the school, college, university or recognized medical school in New England, to be approved by a justice of a court of record in and for the county in which the physician or surgeon resides; or in which the school, college, university or recognized medical school in New England is situated. The bond must be in the penal sum of \$1,000, conditioned that all bodies that the physician or surgeon or the school, college, university or recognized medical school in New England receives thereafter are used only for the promotion within the State of medical education, which includes nursing training and premedical education, and, when no longer needed for such educational purposes, are decently buried, cremated or subjected to natural organic reduction. The bond must be examined annually in the month of December by the Treasurer of State and the Treasurer of State shall certify in writing upon each bond in the Treasurer of State's possession approval of the bond. If a bond is not approved by the Treasurer of State, the Treasurer of State shall immediately notify the party giving the bond, who shall forthwith file a new bond. A person that sells or buys a body or in any way ~~traffie~~ trafficks

in the same, transmits or conveys a body to any place outside of the State or causes the same to be done, except as provided in section 2884, must be punished by a fine of not more than \$200 or by imprisonment for not more than 11 months.

Sec. 18. 22 MRSA §2900, sub-§1, ¶D is enacted to read:

D. "Cremate" means subject to the process of cremation or natural organic reduction as defined in section 2841-A, subsection 1.

Sec. 19. 22 MRSA §2900-A is enacted to read:

§2900-A. Natural organic reduction

1. Definitions. As used in this section, unless the context otherwise indicates, the following terms have the following meanings.

A. "Natural organic reduction" has the same meaning as in section 2841-A, subsection 1.

B. "Natural organic reduction facility" has the same meaning as in section 2841-A, subsection 2.

2. Natural organic reduction permitted. A cemetery corporation operating within the State, after obtaining a license from the department and meeting the requirements of this section, may establish and maintain suitable buildings and appliances for subjecting the body of a deceased person to natural organic reduction and, in accordance with this section and the rules of the department, may subject the body to natural organic reduction and dispose of the remains of the body.

3. Application for licensure. A cemetery corporation operating within the State seeking to establish a natural organic reduction facility shall submit the following information to the department in application for licensure:

A. A list of the directors, employees and certificate holders of the cemetery corporation;

B. A certified survey of the site and location within the State the natural organic reduction facility will be situated;

C. A business plan for the operation of the natural organic reduction facility, including but not limited to the number of bodies expected to be subjected to natural organic reduction each year, the number of sites within the natural organic reduction facility for subjecting bodies to natural organic reduction and the manufacturing costs, capital costs, financing, anticipated number of employees and types of services provided and pricing of those services;

D. A description of any anticipated effect the natural organic reduction facility will have within the State;

E. Plans, designs and costs of any structures to be built or retrofitted for the natural organic reduction facility; and

F. A description of any approvals or permits required to build or retrofit the natural organic reduction facility required under state laws and local ordinances and documentation showing that the approvals or permits have been obtained.

Within 35 days of receiving an application pursuant to this subsection, the department may request any other information the department considers necessary.

4. Timeline for processing application; notification of results. The department shall approve or deny an application for licensure submitted under subsection 3 within 90 days of receiving a complete application. The department shall provide, by registered or certified mail addressed to the cemetery corporation at its principal office, written notice of its determination to the cemetery corporation and, if the application is denied, the reasons for denying the application.

5. Authority. A natural organic reduction facility licensed under this section may:

A. Subject the body of a deceased person to natural organic reduction;

B. Meet with members of the public to arrange and provide for natural organic reduction;

C. Enter into contracts for the provision of disposition by natural organic reduction, except that the natural organic reduction facility may not enter into pre-need agreements under Title 13, section 1264;

D. Arrange, direct or perform the removal or transportation of the body of a deceased person; and

E. Secure and file all necessary certificates, permits, forms or other documents.

6. Certification required. An employee of a natural organic reduction facility who is responsible for the daily operations of natural organic reduction must be certified by the department within one year of the employee's beginning employment. Renewal of the employee's certification must occur every 5 years.

7. Facility requirements. A natural organic reduction facility shall:

A. Maintain the facility in a clean, orderly and sanitary manner;

B. Have adequate ventilation;

C. Have a temporary storage area to store the remains of human bodies that is not accessible to the general public; and

D. Structure the facility in a manner that protects privacy, including by having tightly closed and rigid doors, covered windows and locked and secured entrances.

8. Certificate from medical examiner or medicolegal death investigator. The body of a deceased person may not be subjected to natural organic reduction within 48 hours after death unless the person died of a contagious or infectious disease, and in no event may the body of a deceased person be subjected to natural organic reduction until the natural organic reduction facility in charge of the disposition has received a certificate from a duly appointed medical examiner or medicolegal death investigator appointed pursuant to Title 22, section 3023-A that the medical examiner or medicolegal death investigator has made personal inquiry into the cause and manner of death and is satisfied that further examination or judicial inquiry concerning the cause and manner of death is not necessary. This certificate, a certified copy of the death certificate and a burial transit permit, if necessary, when presented by the authorized person as defined in Title 22, section 2846 is sufficient authority for the body to be subjected to natural organic reduction, and the natural organic reduction facility in charge of the disposition may not refuse to subject the body to natural organic reduction solely because these documents are presented by such an authorized person. The certificate must be retained for a period of 15 years by the natural organic

reduction facility in charge of subjecting the body to natural organic reduction. For the certificate, the medical examiner must receive a fee of \$25 payable by the person requesting the certificate. This fee may be waived at the discretion of the Chief Medical Examiner.

9. Privacy of human remains. A natural organic reduction facility shall adopt policies to ensure that the privacy of human remains is respected. The facility shall restrict access to the storage area where human remains are stored or being subjected to natural organic reduction, except to an authorized person. For the purposes of this subsection, "authorized person" means:

A. A licensed funeral director;

B. A student of the practice of funeral services;

C. Officers or trustees of the cemetery corporation operating the natural organic reduction facility;

D. Designated employees or agents of the natural organic reduction facility;

E. State or municipal employees acting within the scope of their duties;

F. Designated instructors of the practice of funeral services;

G. Licensed physicians or nurses; and

H. Members of the immediate family of the deceased person or their agents.

10. Statement regarding condition of body. The next of kin of the deceased person or other authorized person shall attest that the body of the deceased person does not contain a battery, battery pack, power cell, radioactive implant or radioactive device.

11. Container requirements. Upon delivery to the natural organic reduction facility, the body of a deceased person must be in a container or wrapped in a manner sufficient to contain the body and fully decompose through natural organic reduction. If the container or wrappings are not able to be naturally organically reduced, the natural organic reduction facility shall timely notify the person making the funeral arrangements that the body of the deceased person will be transferred to an alternative container and the person making the funeral arrangements shall sign an acknowledgement that this timely notification was made. This record must be maintained by the natural organic reduction facility. The body of the deceased person may then be transferred to an alternative container by a licensed funeral director.

12. Opening container prohibited; exceptions. The container or wrappings required in subsection 11 may not be opened or removed unless by a licensed funeral director in the presence of a witness if good cause exists to confirm the identity of the deceased person, to ensure that devices identified in subsection 10 are not present or upon reasonable demand by the person's next of kin or agent. If the container or wrappings are opened or removed, the natural organic reduction facility must document in its records the reason, the name of the person who authorized the opening of the container or removal of the wrappings, the name of the person who opened the container or removed the wrappings and the name of the witness.

13. Multiple deceased persons. A natural organic reduction facility may not subject more than one deceased person's body to natural organic reduction in the same container at one time unless the facility receives explicit, signed authorization by the person making

funeral arrangements. This record must be maintained by the natural organic reduction facility.

14. Treatment of remains after natural organic reduction. Following the natural organic reduction of the body of a deceased person, a natural organic reduction facility:

A. Shall thoroughly clean the interior of the container used for natural organic reduction;

B. Shall place the remains of the body in an individual container that is sufficient to hold the remains and does not contain other remains unless authorized pursuant to subsection 13;

C. Shall label the container of the remains of the body with the name of the deceased person whose body was subjected to natural organic reduction;

D. May use a magnet and sieve or other appropriate method to separate the human remains from any foreign material. The foreign material must be disposed of in accordance with department rules; and

E. Shall pulverize the remains of the body until no single fragment is recognizable as skeletal tissue.

15. Inspection. Upon inspection of a natural organic reduction facility, the department may require the facility to produce records of the facility's operation and maintenance, including authorizations for the disposition of bodies of deceased persons.

16. Rulemaking. The department shall adopt rules to implement this section. Rules adopted pursuant to this section are routine technical rules as defined by Title 5, chapter 375, subchapter 2-A.

Sec. 20. 22 MRSA §2954, sub-§9, as enacted by PL 2007, c. 601, §2, is amended to read:

9. Superior rights. Subject to section 2951, subsection 8 and section 2961, the rights of the person to which a part passes under section 2951 are superior to rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming or, cremation or natural organic reduction and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under section 2951, upon the death of the donor and before embalming or, cremation, or natural organic reduction shall cause the part to be removed without unnecessary mutilation. For purposes of this subsection, "natural organic reduction" has the same meaning as in section 2841-A, subsection 1.

Sec. 21. 32 MRSA §1400, sub-§4-A is enacted to read:

4-A. Natural organic reduction. "Natural organic reduction" means the contained accelerated conversion of human remains to soil.

Sec. 22. 32 MRSA §1400, sub-§4-B is enacted to read:

4-B. Natural organic reduction facility. "Natural organic reduction facility" means a building or structure or a room or other space in a building or structure or real property where natural organic reduction is facilitated and occurs.

Sec. 23. 32 MRSA §1400, sub-§5, as amended by PL 2021, c. 183, §1, is further amended to read:

5. Practice of funeral service. "Practice of funeral service" means the engagement of a person in the care or disposition of the human remains or in the practice of disinfecting and preparing by embalming or otherwise the human remains for the funeral service, transportation of human remains to the place of burial or cremation or natural organic reduction, or the practice of helping to meet the emotions and disposition of the bereaved or the practice of funeral directing or embalming as presently known, whether under these titles or designations or otherwise. "Practice of funeral service" also means making arrangements for funeral services or making financial arrangements for the rendering of such services. "Practice of funeral service" does not mean the ownership or operation of a cemetery, crematorium, natural organic reduction facility, mausoleum or columbarium or any other facility used for burial of human remains. "Practice of funeral service" does not include the transportation of human remains by an authorized person. "Practice of funeral service" does not include the manufacturing or selling of caskets or alternative containers.

A license for the practice of funeral service as used in this chapter is the license given to a person who is engaged in the practice of funeral service as above defined.

Sec. 24. Rulemaking. The Department of Health and Human Services shall amend its rules in order to implement this Act.