

OFFICE OF POLICY AND LEGAL ANALYSIS

Date: May 6, 2021
To: Joint Standing Committee on Health & Human Services
From: Erin Dooling, Esq., Legislative Analyst
RE: **LDs 1223 and 1535**

LD 1223 An Act To Allow Crematories Using Chemical Dissolution Processes in Facilities Other Than Cemeteries

(re-referred from IDEA) [Testimony and IDEA bill analysis](#) in electronic LD file

HOW LD 1223 FITS INTO EXISTING LAW:

- Current law provides that a crematory may only be erected in a cemetery that is at least 20 acres in size and has been in existence and used for burial for at least 2 years preceding the erection of the structure ([13 M.R.S. § 1341](#)). Sec. 1 exempts a crematory that exclusively uses a chemical dissolution process to dissolve human remains from this requirement.
- Crematories are currently regulated by DHHS ([32 M.R.S. § 1405](#); [DHHS rules ch. 227](#)) – Sec. 1, 2 and 3 provides that DPFR, State Board of Funeral Service has regulatory authority over a crematory that exclusively uses a chemical dissolution process to dissolve human remains.
- DHHS rules ([ch. 227](#), p. 3) currently define cremation to include “chemical dissolution.”
- “Chemical dissolution process” is defined in Sec. 1 to mean “a water and alkaline chemical process to reduce human remains to components of liquid and bone fragments without direct flame.” (It is not defined in DHHS rules.)

OTHER REQUIREMENTS OF LD 1223:

- Routine technical rules to be adopted by DPFR, State Board of Funeral Service (*Sec. 1, 2, 3*)
- Required report to IDEA committee by December 1, 2021 with authority to report out legislation (*Sec. 3*)

ISSUES / SUGGESTED AMENDMENTS FROM TESTIMONY:

- Same as in LD 1074 (from DPFR, State Board of Funeral Service & Maine Funeral Directors Assoc.)
- DEP requests that DEP and DHHS be consulted in the rulemaking process by the Board of Funeral Service regarding water quality

DRAFTING ISSUES / QUESTIONS:

- Clarify regulatory authority overseeing chemical dissolution
- Which term describing the process to be regulated should be used?

FISCAL IMPACT: [Preliminary fiscal impact statement](#)

LD 1535 An Act To Allow Green Death Care Practices by Alkaline Hydrolysis and Natural Organic Reduction

HOW LD 1535 FITS INTO EXISTING LAW:

- Sections 2-10, & 12 add alkaline hydrolysis and natural organic reduction to provisions of law that currently relate to cemeteries and crematories in [Title 13, chapter 83](#):
 - Requirements for the disposal of bodies – where bodies and cremains may be buried, entombed or otherwise disposed of ([13 M.R.S. § 1032](#)) (*Sec. 2*)
 - Penalties for violation of the chapter ([13 M.R.S. § 1035](#)) (*Sec. 3*)
 - Definition of columbarium to clarify that “cremated remains” include human remains that have undergone alkaline hydrolysis and natural organic reduction ([13 M.R.S. § 1101-A\(2\)](#)) (*Sec. 4*)
 - Requirements around accounts containing pre-need funds and services covered under an agreement to provide services after death that were already paid for ([13 M.R.S. § 1264](#)) (*Sec. 5 & 6*)
 - Provisions around returning tangible personal property purchased by the person ([13 M.R.S. § 1265](#)) (*Sec. 7*)
 - Prohibition on uninvited telephone or door-to-door solicitations ([13 M.R.S. § 1266](#)) (*Sec. 8*)
 - Prohibition on establishing such a facility for the purpose of private profit or gain to a person associated with the cemetery association ([13 M.R.S. § 1303](#)) (*Sec. 9*)
 - The sale of cemetery lots, plots, crypts or niches for speculative or financial investment purposes is prohibited ([13 M.R.S. § 1304](#)) (*Sec. 10*)
 - Makes consistent the law that a columbarium may include human bodies cremated by these two processes (*Sec. 12*)
- Current law provides that a crematory may only be erected in a cemetery that is at least 20 acres in size and has been in existence and used for burial for at least 2 years preceding the erection of the structure ([13 M.R.S. § 1341](#)). Similar to LD 1223, Sec. 11 of LD 1535 exempts an alkaline hydrolysis facility or natural organic reduction facility from this requirement.
- Sections 14-19 add alkaline hydrolysis and natural organic reduction to current provisions of law related to the disposition of human remains in [Title 22, chapter 707](#) and [chapter 709](#):
 - Under [22 M.R.S. § 2843](#):
 - Requires a permit for final disposition of human remains (*Sec. 14*)
 - Authorizes the issuance of a permit for final disposition by alkaline hydrolysis or natural organic reduction (*Sec. 15*)
 - Requires endorsement that the body was disposed of (*Sec. 16*)
 - Authorizes burial in a public burying ground (*Sec. 17*)
 - Allows abandoned remains to be disposed of by alkaline hydrolysis and natural organic reduction ([22 M.R.S. § 2843-A\(2\)](#)) (*Sec. 18*)

- Amends the actions and liability of funeral directors or practitioners of funeral services, cemeteries and crematories to include reliance on authorizations to direct alkaline hydrolysis and natural organic reduction and requirement to prepare a certificate certifying the disposition of the remains ([22 M.R.S. § 2842\(10\)](#)) (*Sec. 19*)
- Changes the definition of “burial” to permit the disposition by alkaline hydrolysis and natural organic reduction for dead bodies in the custody of almshouses, prisons, morgues, hospitals or any other public institution ([22 M.R.S. § 2883](#)) (*Sec. 20*)
- Adds a definition of “cremated” to include disposition by alkaline hydrolysis and natural organic reduction in order to authorize a funeral director to dispose of the remains of a veteran in accordance with the law ([22 M.R.S. § 2900](#)) (*Sec. 21*)
- Section 26 makes alkaline hydrolysis and natural organic reduction subject to the regulatory authority of DHHS and has identical provisions as cremation currently provided in [32 M.R.S. § 1405](#), including a required waiting period and labeling of human cremains.
- Section 27 authorizes the disposition of human remains that were subject to alkaline hydrolysis and natural organic reduction in an identical manner to the current requirements around the disposition of cremated remains in 32 M.R.S. § 1405-A.
- Section 28 permits the State Funeral Board to deny a license, refuse to renew a license or impose disciplinary sanctions a person licensed under chapter 21 solicits or accepts any commission, bonus or rebate by recommending or using an alkaline hydrolysis and natural organic reduction facility.

OTHER PROVISIONS OF LD 1535:

- Adds definitions of alkaline hydrolysis and natural organic reduction and alkaline hydrolysis and natural organic reduction facilities in Titles 13, 22 and 32 to effectuate the provisions above.
 - Definition of **alkaline hydrolysis**: “[T]he reduction of human remains to bone fragments and essential elements in a licensed alkaline hydrolysis facility using heat, pressure, water and base chemical agents.” (*Sec. 1, 13, 22*)
 - Definition of **alkaline hydrolysis facility**: “[A] building or structure or a room or other space in a building or structure containing one or more hydrolysis vessels to be used for alkaline hydrolysis.” (*Sec. 1, 13, 23*)
 - Definition of **natural organic reduction**: “[T]he contained accelerated conversion of human remains to soil.” (*Sec. 1, 13, 24*)
 - Definition of **natural organic reduction facility**: “[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. 1, 13, 25*)

DRAFTING ISSUES / NOTES:

- Is the term “hydrolysis vessel” used in the definition of “alkaline hydrolysis facility” sufficiently clear?
- Should there be an unallocated directive to DHHS and the State Funeral Board to update its rules to incorporate the statutory changes?
- Which terms describing the processes to be regulated should be used?

FISCAL IMPACT: Not yet determined

TERMINOLOGY NOTE: From the testimony that's been submitted, I understand that alkaline hydrolysis (LD 1535) is also called chemical dissolution (LD 1223), aquamation, liquid cremation, "Green Cremation" and resomation (*which is the preferred term of the Maine Funeral Directors Association*)

ADDITIONAL INFORMATION REQUESTED BY COMMITTEE:

- *Submitted to DEP and DHHS:* What chemicals are used on chemical cremation and natural organic reduction and what happens with the chemicals once they've been used to dissolve the human remains?