

Office of Policy and Legal Analysis

Date: April 14, 2021
To: Joint Standing Committee on Innovation, Development, Economic Advancement and Business
From: Rachel Olson, Legislative Analyst
Re: LD 1223, An Act To Allow Crematories Using Chemical Dissolution Process in Facilities Other Than Cemeteries (Carney)

Bill Summary

This bill exempts crematories that exclusively use a chemical dissolution process to dissolve human remains from the law governing the size and age of cemeteries in which a crematory may be erected. The bill also requires the Department of Professional and Financial Regulation, State Board of Funeral Service to adopt rules for the establishment and operation of crematories that exclusively use a chemical dissolution process to dissolve human remains. It also requires the department to submit a report relating to the rulemaking to the Joint Standing Committee on Innovation, Development, Economic Advancement and Business by December 1, 2021, including the department's recommendations for suggested legislation.

Testimony ([Link](#)):

Proponents: Senator Carney, sponsor; Kathleen Blackburn, Aquamation Services of Maine; Cade Blackburn, Aquamation Services of Maine; Samantha Sieber, Bio-Response Solutions, Inc.;

Opponents: Christopher Ladner; David Morgan; Ed Pineau, Maine Funeral Directors Association (MFDA); Mike Martel, President MFDA; Jim Fernald, MFDA;

Neither for nor against: Brian Kavanah, DEP/Maine Bureau of Water Quality; Jennifer Hawk, DPFR/OPOR;

Potential Issues or Technical Problems:

There are concerns about this process being moved to and regulated by the State Funeral Board, as it is currently regulated under Maine CDC's Division of Environmental Health (DHHS). The Board of Funeral Service does not currently have any authority to regulate crematories. The license issued by the board is a license for the practice of funeral service, which is defined (see below) to exclude the ownership or operation of a cemetery, crematorium, etc. The department indicated that this expansion of the regulatory authority of the board would trigger a sunrise review and would require hiring an environmental specialist.

Information Requests:

1. Which other states allow for cremation through alkaline hydrolysis?

There are 18 or 19 states which allow, either through statute or rule, alkaline hydrolysis. Please see the included chart.

Additional Information:

[Title 32, Chapter 21: Funeral Directors and Embalmers](#)

[Title 13 \(Corporations\), Part 2: Corporations Without Capital, Chapter 83: Cemetery Corporations](#)

Possible Amendments:

Brian Kavanah from DEP requested that if the decision is made to move the regulatory oversight of alkaline hydrolysis to the Funeral Board, that the Department of Environmental Protection, Bureau of Water Quality, and the Department of Health and Human Services, Subsurface Program be consulted by the Department of Professional and Financial Regulation, State Board of Funeral Service during the rulemaking process specified in Section 2 of the bill (see his testimony for further information).

Other Considerations:

There was mention of one business in Belfast, ME offering chemical cremation – The Riposta Funeral Home. There is no mention of the service on their website. It appears that [Direct Cremation of Maine](#), which offers a separate webpage, but is located at the same address and seems to be the same owner as Riposta Funeral Home, offers this service.

Cremation does not appear to be defined in statute. Instead, cremation is defined by rule [by DHHS, Maine CDC, Division of Environmental Health](#). In 2009, cremation was defined as:

Cremation: The technical process, using direct flame and heat, or other process, that reduces human remains to bone fragments. The reduction takes place through heat and evaporation, or through other processes, including, but not limited to, chemical dissolution. Cremation includes the processing and usually includes the pulverization of the bone fragments.

And a crematory and crematorium as:

Crematorium: The building or portion of a building that houses the cremation chamber and the holding facility.

Crematory: A crematorium.

In doing this, chemical cremation was made legal in Maine, but was now governed by the same rules as other types of cremation, including the provision that a crematorium be constructed on 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, and is consistent with local zoning regulations and current Maine law. It appears this requirement has been in law since at least 1999.

Fiscal Impact:

The [Preliminary Fiscal Note](#) is as follows:

130th MAINE LEGISLATURE

LD 1223

LR 880(01)

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

Preliminary Fiscal Impact Statement for Original Bill

Sponsor: Sen. Carney of Cumberland

Committee: Innovation, Development, Economic Advancement and Business

Fiscal Note Required: Yes

Preliminary Fiscal Impact Statement

Potential current biennium revenue increase - Other Special Revenue Funds

	FY 2021-22	FY 2022-23	Projections FY 2023-24	Projections FY 2024-25
Appropriations/Allocations				
Other Special Revenue Funds	\$54,961	\$65,178	\$68,379	\$71,772
Transfers				
Other Special Revenue Funds	\$0	\$0	\$0	\$0

Fiscal Detail and Notes

The Department of Professional and Financial Regulation will require Other Special Revenue Funds allocations totaling \$54,961 in fiscal year 2021-22 and \$65,178 in fiscal year 2022-23 for the costs associated with the regulation of certain crematories.

Of this amount, the Licensing and Enforcement program will require Other Special Revenue Funds allocations of \$52,232 in fiscal year 2021-22 and \$61,831 in fiscal year 2022-23 to establish one half-time Environmental Specialist IV position and related All Other costs to manage anticipated application reviews, inspections, complaints and investigations. The Administrative Services Division will require Other Special Revenue Funds allocations of \$2,729 in fiscal year 2021-22 and \$3,347 in fiscal year 2022-23 for technology-related costs associated with establishing the Environmental Specialist IV position. The Office of Professional and Occupational Licensing will transfer funds from its Licensing and Enforcement program (which includes funds for the Board of Funeral Services) to the Administrative Services Division to fund the allocations.

The Board of Funeral Services within the Office of Professional and Occupational Licensing has sufficient resources available to support the cost of this legislation in fiscal year 2021-22 without raising fees. Crematory and other fees may need to be increased beginning in fiscal year 2022-23 if the current fee structure does not generate sufficient revenue to cover the cost of this legislation.

Title 32 §1400. Definitions.

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 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 selling funeral supplies to the public or making financial arrangements for the rendering of such services or the sale of such supplies. "Practice of funeral service" does not mean the ownership or operation of a cemetery, crematorium, 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. 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.

Information from Nolo.com and updated by Valerie Keene, attorney. Please see individual state laws and regulations to verify the accuracy of the data. This is provided solely to give an overview of alkaline hydrolysis within the states. <https://www.nolo.com/legal-encyclopedia/alkaline-hydrolysis-laws-your-state.html#:~:text=Is%20Alkaline%20Hydrolysis%20Available%20in%20Your%20State%3F%20,to%20alka%20...%20%2022%20more%20rows%20>

This chart summarizes the alkaline hydrolysis laws in each state. Click on the name of the state to learn more about its burial and cremation laws.

State	Status	More Information
Alabama	No law	Alabama does not currently have any laws or regulations about alkaline hydrolysis.
Alaska	No law	Alaska does not currently have any laws or regulations about alkaline hydrolysis.
Arizona	No law	Arizona does not currently have any laws or regulations about alkaline hydrolysis.
Arkansas	No law	Arkansas does not currently have any laws or regulations about alkaline hydrolysis.
California	Legal but not available in state	Alkaline hydrolysis was legalized in California in October 2017 by explicit statute. The law is set to go into effect July 1, 2020. (Section 7611.9 of the California Business and Professions Code).
Colorado	Allowed without explicit statute	Colorado legalized alkaline hydrolysis in 2011 when it changed its definition of cremation. (Colorado Statutes § 12-54-102.)

State	Status	More Information
Connecticut	No law	Connecticut does not currently have any laws or regulations about alkaline hydrolysis.
Delaware	No law	Delaware does not currently have any laws or regulations about alkaline hydrolysis.
Florida	Legal and available in state	Alkaline hydrolysis had some of its first roots in Florida. Florida authorized alkaline hydrolysis by slowly expanding its definition of "cremation" to include methods other than incineration. (Florida Statutes § 497.005.) Several local funeral homes offer alkaline hydrolysis for human remains.
Georgia	Allowed without explicit statute but not available in state	Georgia legalized alkaline hydrolysis in 2012 by changing the state's definition of cremation. (Ga. Code Ann. 43-18-1.) However, no funeral homes in the state currently offer the service. An Atlanta-based business offers alkaline hydrolysis for pets.
Hawaii	No law	Hawaii does not currently have any laws or regulations about alkaline hydrolysis.
Idaho	Legal but not available in state	Alkaline hydrolysis was explicitly legalized in 2014, when the Senate Commerce & Human Resources Committee adopted the process in a docket that amended the Rules of the State Board of Morticians . However, no funeral homes in Idaho currently offer the process.
Illinois	Legal and available in state	Alkaline hydrolysis was legalized in Illinois in 2012, when the legislature redefined "cremation" to specifically include the process. (See 410 ILCS § 18/5.) Multiple funeral homes in Illinois offer this process.
Indiana	No law	Indiana does not currently have any laws or regulations about alkaline hydrolysis.
Iowa	No law	Iowa does not currently have any laws or regulations about alkaline hydrolysis.
Kansas	Legal but not available in state	Kansas legalized alkaline hydrolysis in 2011, when the state broadened its definition of cremation to include methods other than "direct exposure to intense heat and flame." (Kansas Statutes § 65-1760.) However, no funeral homes in Kansas currently offer the process as a service. The process is usually called "bio-cremation" in Kansas.
Kentucky	No law	Kentucky does not currently have any laws or regulations about alkaline hydrolysis.

State	Status	More Information
Louisiana	No law	Louisiana does not currently have any laws or regulations about alkaline hydrolysis.
Maine	Allowed without explicit statute and available in state	Alkaline hydrolysis was legalized in Maine in 2009, when the Maine Attorney General approved a new definition of cremation in the Maine Rules for Establishment and Operation of Crematoria (144 CMR 244, Section 1.) There is one alkaline hydrolysis facility in Maine that offers its services to funeral homes in the state.
Maryland	Legal but not available in state	Maryland legalized alkaline hydrolysis in 2010, when the state explicitly defined cremation to include processes other than heat and flame. (Maryland Business Regulation Code § 5-101.) No Maryland facility has yet made the process available for human remains.
Massachusetts	No law	Massachusetts does not currently have any laws or regulations about alkaline hydrolysis.
Michigan	Possibly legal	Alkaline hydrolysis appears to be happening in Michigan, but no statutes or regulations explicitly allow it. A few funeral homes offer it in their materials, but it's unclear whether the alkaline hydrolysis facilities are in-state.
Minnesota	Legal and available in state	Alkaline hydrolysis has been legal in Minnesota since 2003 when licensing regulations and requirements were applied to the process. Several funeral homes offer this service in Minnesota.
Mississippi	No law	Mississippi does not currently have any laws or regulations about alkaline hydrolysis.
Missouri	Allowed without explicit statute	Missouri's laws do not allow alkaline hydrolysis by name. However, the process is considered a legal method of final disposition because Missouri lawmakers and the state funeral board consider the definition of "cremation" to include the process of alkaline hydrolysis. (See 20 CSR 2120-2.071). In Missouri, this process is often referred to as "aquamation" or "flameless cremation." Multiple funeral homes currently offer alkaline hydrolysis in Missouri.
Montana	No law	Montana does not currently have any laws or regulations about alkaline hydrolysis.
Nebraska	No law	Nebraska does not currently have any laws or regulations about alkaline hydrolysis.

State	Status	More Information
Nevada	Legal and available in state	Alkaline hydrolysis was legalized in Nevada in May 2017 when Assembly Bill 205 was passed by state lawmakers, which included a specific definition of alkaline hydrolysis. Multiple funeral homes in Nevada offer alkaline hydrolysis.
New Hampshire	Not currently legal but was previously legal	Alkaline hydrolysis was legalized in New Hampshire in 2006 but the law was later repealed in 2008 before any facilities offered the process. An effort to pass a new bill in 2013 that would have legalized the process again failed. One funeral home in Jaffrey, New Hampshire works with an alkaline hydrolysis in Maine and sends human remains there to be legally processed.
New Jersey	No law	New Jersey does not currently have any laws or regulations about alkaline hydrolysis.
New Mexico	No law	New Mexico does not currently have any laws or regulations about alkaline hydrolysis.
New York	No law	New York does not currently have any laws or regulations about alkaline hydrolysis.
North Carolina	Legal and available in state	Alkaline hydrolysis was legalized when N.C. Gen. Stat. § 90-210.136 became effective on October 1, 2018, which made alkaline hydrolysis an acceptable method of final disposition in North Carolina.
North Dakota	No law	North Dakota does not currently have any laws or regulations about alkaline hydrolysis.
Ohio	No law	Ohio does not currently have any laws or regulations about alkaline hydrolysis.
Oklahoma	No law	Oklahoma does not currently have any laws or regulations about alkaline hydrolysis.
Oregon	Legal and available in state	Alkaline hydrolysis was legalized in Oregon in 2009, when the state updated its definition of “final disposition” to include the dissolution of human remains. (Oregon Revised Statutes § 692.010(4) .) In Oregon, alkaline hydrolysis is regulated by the state’s Mortuary and Cemetery Board, which has published detailed rules covering "alternative disposition facilities." Multiple funeral homes offer this service in Oregon.
Pennsylvania	No law	Pennsylvania does not currently have any laws or regulations about alkaline hydrolysis.
Rhode Island	No law	Rhode Island does not currently have any laws or regulations about alkaline hydrolysis.

State	Status	More Information
South Carolina	No law	South Carolina does not currently have any laws or regulations about alkaline hydrolysis.
South Dakota	No law	South Dakota does not currently have any laws or regulations about alkaline hydrolysis.
Tennessee	No law	Tennessee does not currently have any laws or regulations about alkaline hydrolysis.
Texas	No law	Texas does not currently have any laws or regulations about alkaline hydrolysis.
Utah	Legal but not available in state	Utah passed a bill specifically allowing for alkaline hydrolysis in 2018. However, there are not any current facilities in the state that offer alkaline hydrolysis.
Vermont	Legal but not available in state	Alkaline hydrolysis was legalized in Vermont in 2014. (26 V.S.A. 21 § 1211). Individuals who perform alkaline hydrolysis must obtain a license by the state and are subject to rules by the state licensing board. (See 26 V.S.A. 21 § 1252 .) There are no funeral homes in the state that currently offer this process. To find an alkaline hydrolysis facility, you may need to look to one of the few states where the process is both legal and available.
Virginia	No law	Virginia does not currently have any laws or regulations about alkaline hydrolysis.
Washington	No law	Washington's law allowing alkaline hydrolysis goes into effect on May 1, 2020. (See RCW 68.50.110)
Washington D.C.	No law	Washington, D.C. does not currently have any laws or regulations about alkaline hydrolysis.
West Virginia	No law	West Virginia does not currently have any laws or regulations about alkaline hydrolysis.
Wisconsin	No law	Wisconsin does not currently have any laws or regulations about alkaline hydrolysis.
Wyoming	Legal but not available in state	In 2014, Wyoming opened the door to alkaline hydrolysis when it expanded the state's Funeral Services Practitioners Act to cover "chemical disposition." (Wyoming Statutes § 33-16-502 .) No Wyoming facility has yet made alkaline hydrolysis available for human remains.

Look to your state's laws for the latest changes in alkaline hydrolysis in your state.

