
**SENATE COMMITTEE ON
BUSINESS, PROFESSIONS AND ECONOMIC DEVELOPMENT**
Senator Richard Roth, Chair
2021 - 2022 Regular

Bill No:	AB 351	Hearing Date:	June 13, 2022
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Urgency:	No	Fiscal:	Yes
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Subject: Reduction of human remains and the disposition of reduced human remains

SUMMARY: Establishes a regulatory framework for a Licensed Reduction Facility (LRF) under the jurisdiction of the Cemetery and Funeral Bureau (Bureau) for the disposition of human remains; requires training for LRF employees; defines “reduced human remains”; imposes the same requirements for reduced human remains as cremated and hydrolyzed remains; and, requires the Bureau and the Department of Public Health (DPH) to implement specified regulations by July 1, 2024.

NOTE: Double-referral to Senate Committee on Health, Second.

Existing law:

- 1) Establishes the Bureau within the Department of Consumer of Affairs for the licensure and regulation of cemetery brokers, cemetery salespersons, cemetery managers, cemeteries, crematories, crematory managers, cremated remains disposers, and licensed hydrolysis facilities. (Business and Professions Code (BPC) § 7600 *et. seq.*)
- 2) Authorizes the Bureau to inspect the premises in which the business of a funeral establishment, cemetery, or crematory is conducted, where embalming is practiced or, where human remains are stored. (BPC § 7607)
- 3) Defines a “cremated remains disposer” as a person who for their own account or for another, disposes of, or offers to, dispose of cremated human remains or hydrolyzed human remains by scattering over or on land and sea. (BPC § 7611.9)
- 4) Authorizes the Bureau to inspect the books, records, and premises of any hydrolysis facility, as specified, and no prior notification of the inspection is required to be given to the licensee, and requires the Bureau to conduct at least one unannounced inspection annually. (BPC §§ 7653.35, 7653.36)
- 5) Prohibits a person from disposing or offering to dispose of human remains unless registered as a cremated or hydrolyzed human remains disposer by the Bureau. (BPC § 7672)
- 6) Subjects a cremated remains disposer to disciplinary action if they scatter any cremated or hydrolyzed human remains without specific written instructions from the person having the right to control the disposition of the remains or who scatters any

remains in a manner not in accordance with those instructions. (BPC § 7672.4)

- 7) Requires every cremated remains disposer to dispose of cremated remains within 60 days of the receipt of those remains, unless a written reason for the delay is presented to the person with the right to disposition of the remains and provide the Bureau with the address and telephone number of any storage facility being used by a registrant to store cremated remains. (BPC § 7672.6(a))
- 8) Requires an applicant for a hydrolysis facility license to prove compliance with all applicable laws, rules, regulations, ordinances, and orders and the Bureau will not issue a hydrolysis facility license until the Bureau is satisfied that the public interest, human health, and environmental quality will be served by the applicant. (BPC § 7639.06(a))
- 9) Requires the Bureau to adopt and amend rules and regulations prescribing standards for applicants for hydrolysis facility licensees, as specified. (BPC 7639.08(a))
- 10) Authorizes hydrolysis chamber manufacturers to apply to the DPH for approval of a hydrolysis chamber upon finding that the hydrolysis chamber causes the destruction of pathogenic microorganisms, as specified. (BPC § 7639.08(b))
- 11) Prohibits cremated or hydrolyzed human remains from being removed from the place of cremation or hydrolysis, nor any charge for the cremation or hydrolysis, unless the cremated remains or hydrolyzed human remains have been processed so that they are suitable for inurnment within a cremated remains container, hydrolyzed human remains container, or an urn, as specified. (Health and Safety Code (HSC) § 7054.1)
- 12) Requires that prior to the disposition of cremated hydrolyzed human remains, every licensee or registrant to do all of the following:
 - a) Remove the cremated remains or hydrolyzed human remains from the place of cremation or hydrolysis in a durable container;
 - b) Keep the cremated remains or hydrolyzed human remains in a durable container;
 - c) Store the cremated remains or hydrolyzed human remains in a place free from exposure to the elements; and,
 - d) Responsibly maintain the cremated remains or hydrolyzed human remains. (HSC § 7054.6)
- 13) States that unless express written permission from the person entitled to control the disposition of the remains, no person is permitted to:
 - a) Cremate the remains of more than one person at the same time in the same cremation chamber, or introduce the remains of a second person into a cremation chamber until incineration of any preceding remains has been

terminated and reasonable efforts have been employed to remove all fragments of the preceding remains, as specified;

- b) Dispose of or scatter cremated remains in a manner or in a location that the remains are commingled with those of another person, as specified;
- c) Place cremated or un-cremated remains of more than one person in the same container or the same interment space, except under certain circumstances. (HSC § 7054.7)

This bill:

- 1) Authorizes a corporation, partnership, or natural person to operate, establish, or maintain a LRF with a valid license issued by the Bureau.
- 2) Conforms LRF applicant requirements for licensure by the Bureau to those of a hydrolysis facility. Requires the Bureau to establish the fee to obtain or renew a reduction facility license, and requires every LRF operating a reduction facility to pay an additional charge per reduction made during the preceding quarter, to be set by the Bureau.
- 3) Specifies what constitutes a change in ownership of a LRF and how those transactions are reported to the Bureau.
- 4) Requires the DPH to adopt, amend as necessary, the rules and regulations prescribing the standards for LRFs to preserve the public health and safety and to ensure the destruction of pathogenic microorganisms, permits a LRF to apply to the DPH for approval of a reduction chamber, and requires DPH to charge an application fee.
- 5) Requires the Bureau to issue a license for a LRF to only those applicants that will employ a reduction chamber approved by the DPH.
- 6) Requires a LRF to ensure or conduct annual maintenance of all reduction chambers in use by the facility.
- 7) Prohibits a LRF and its employees from using a reduction chamber unless it has been approved by the DPH.
- 8) Prohibits the Bureau from renewing a LRF without proof of annual maintenance of all reduction chambers in use by the facility.
- 9) Prohibits a LRF from conducting the reduction of human remains unless specified conditions are met, including:
 - a) The LRF is operated under the supervision of a LRF manager who is not a licensed crematory manager and demonstrates an understanding of applicable laws;

- b) The licensee has a written contract with the person or persons entitled to custody of the remains clearly stating the location, manner, and time of disposition of the remains, in which the person or persons entitled to custody of the remains agree to pay the licensee's regular fee for reduction, disposition, and other services rendered, and any other contractual provisions required by the Bureau, and specifies the provisions required in the contract;
 - c) Reduction of the remains begins not more than 24 hours after delivery of the remains to the license, unless the remains have been preserved in the interim by refrigeration; and,
 - d) The licensee has either a contractual relationship with a licensed cemetery authority for final disposition of reduced human remains by burial, entombment, or inurnment and a contractual relationship with, or ownership of, a conservation area where the reduction facility may lawfully integrate the reduced remains into the soil, as authorized, and prohibits the facility from integrating human remains into the soil that are not called for or accepted by the person or persons entitled to the custody and control of the disposition of those remains within 90 days of date of death.
- 10) Makes it a misdemeanor for a person, firm, or corporation to reduce human remains, or to dispose of reduced human remains, without a valid unexpired reduction facility license, as specified. Subjects a LRF to discipline from the Bureau.
- 11) Makes various definitions related to LRFs and reduced remains, including but not limited to:
- a) "Reduced human remains" means the remains of a human body that have been reduced to soil through a process of reduction, and does not include foreign materials, pacemakers, or prostheses.
 - b) "Reduction" means the process of transforming a human body into a soil using the natural decomposition process, accelerated with the addition of organic materials through specified steps outlining how the body of a deceased person is mixed together with organic materials and warm air and is periodically turned, eventually resulting in the body's reduction to a soil material in large tanks, containers, or similar vessels that hold human remains together with straw, wood chips, or other natural materials for four to six weeks until the process is complete.
 - c) "Integrate into the soil" means the authorized addition and mixing of reduced human remains with existing soil in a defined area within a dedicated cemetery, conservation area, property where the person who has control over the disposition of the reduced human remains has obtained written permission of the property owner of governing agency, or other area in the state where integration is permitted, and soil remains are intended to act as a "soil amendment". Specifies that reduced human remains may only be disposed of by integration into topsoil or integration into the topsoil of a conservation area if the person having the right to control the disposition of those remains has agreed to it in writing; however, integration into soil below

topsoil is not permitted.

- 12) Outlines prohibitions to ensure the remains of only one person at a time are reduced and not comingled.
- 13) Prohibits a LRF from making or enforcing rules requiring that human remains be placed in a casket prior to reduction, refusing to except remains not in a casket, as specified.
- 14) Requires a LRF to maintain on its premises or other business location within the state, an accurate record of all reductions performed, including specified information. Requires a LRF to maintain on its premises, or other business location within the state, records of the maintenance performed on the reduction chamber. Requires LRFs to maintain documentation for at least 10 years after the reduction is performed, and the documentation is subject to inspection by the Bureau.
- 15) Requires a LRF to maintain an identification system allowing identification of each decedent beginning from the time the reduction facility accepts delivery of human remains until the point at which it releases the reduced human remains to a third party, and after the reduction an identifying disk, tab, or other permanent label, is to be placed with the reduced human remains container or containers before the reduced human remains are released from the LRF. Requires each identification tab, label or disk to have a unique identification number, as specified.
- 16) Provides 15 days from the date of a failure to provide the Bureau with the written procedure for identification of remains to produce the procedure before licensure suspension, as specified.
- 17) Requires a LRF to refrigerate a body within two hours of taking custody if the body was not embalmed, as specified.
- 18) Requires a LRF, or its authorized representatives to provide instruction to all facility personnel involved in the reduction process, which must lead to a demonstrated knowledge on the part of an employee regarding identification procedures used during reduction, operation of the reduction chamber and related equipment, and all laws relevant to the handling of a body and reduced human remains. The instruction must be outlined in a written plan maintained by the licensee for inspection and comment by the Bureau.
- 19) Prohibits an employee from operating a reduction chamber or related equipment until the employee has demonstrated to the certified manager of the LRF or authorized representative that the employee understands the procedures required to ensure that health and safety conditions are maintained and that reduced human remains are not comingled, as specified.
- 20) Provides 15 days from the date of a failure to provide the Bureau with the written employee instruction plan or record of employee training to produce a plan or training record before licensure suspension, as specified.
- 21) Imposes the same requirements for reduced human remains as cremated human remains or hydrolyzed remains, for registered cremated remains disposers, funeral

directors, and funeral establishments as specified.

- 22) Requires the person having the right to control the reduced human remains be given the option of receiving none, part, or all of the reduced remains and be notified if receiving none or only part of the reduced remains, of the location where the balance of the remains will be integrated into the soil.
- 23) Imposes similar penalty violations for removal or reduced remains, as specified.
- 24) Imposes the same requirements for the integration of reduced remains into the soil as the scattering of cremated or hydrolyzed remains, as specified.
- 25) Incorporates the reduction of human remains into the requirements for the certificate of death, as specified
- 26) Adds reduced human remains to the requirements for a permit for disposition of remains, as specified.
- 27) Requires a cremated remains disposer to document and retail all permits and private authorizations required for all reduced remains that were integrated into soil outside of a cemetery.
- 28) Includes reduced remains in the definition of “human remains”.
- 29) Adds placing reduced human remains in a reduced human remains container suitable for placement, burial, or shipment to the definition of “inurnment”.
- 30) Adds integration into soil to the definition of “disposition” of human remains.
- 31) Delays the implementation of this bill until July 1, 2024.
- 32) Makes other technical and clarifying changes.

FISCAL EFFECT: Unknown. This bill is keyed fiscal by Legislative Counsel.

COMMENTS:

1. **Purpose.** This bill would establish a new option for burial services to include a “green burial” whereby the body is reduced through the natural process of decomposition by soil in a reduction chamber, which is approved and licensed, as specified. The Author is the source of this bill. According to the Author, “Current California law limits the method of reducing human remains. Right now, the only codified allowable method of burial or solution for human remains is the traditional burial, cremation, or alkaline hydrolysis, which was passed in the Legislature a few years ago. The most traditional methods both either leech chemicals into the ground, and eventually groundwater, or includes a process that releases carbon into the atmosphere. The disposal of human remains needs to be expanded so that there can be an additional methods of respecting the dead while remaining environmentally friendly. California's rate of cremation was 66.7 percent for 2018, according to estimates by the National Funeral Directors Association. But cremation

requires fossil fuels and emits CO₂ into the atmosphere, polluting and contributing to climate change. If every California resident chose natural reduction as their after-death preference, we would save nearly 2.5 million metric tons of CO₂ in just 10 years. That's carbon-savings equivalent of the energy required to power 225,000 homes for one year or the letting 65 million seedlings grow into trees over 10 years."

2. Background.

Regulatory Function of the Bureau. The Bureau regulates more than 13,000 licensees in 13 different licensing categories. The Bureau does not license or regulate cemeteries operated by religious organizations, cities, counties, cemetery districts, the military, Native American tribal organizations, or other groups. The Bureau has the oversight responsibility for both fiduciary and operational activities of its licensing population and has the statutory authority to enforce the licensing and practice acts in the BPC along with jurisdiction over specified provisions of the HSC dealing specifically with human remains, cemetery, and crematory provisions. The Bureau's licensing population includes cemetery brokers, cemetery managers, cemeteries, funeral directors, funeral establishments, embalmers and apprentice embalmers, crematory managers, crematories, hydrolysis facilities, and cremated remains disposers. This bill aims to model the licensure and regulation of reduction facilities based on the provisions established for hydrolysis facilities. Unlike some of the more traditional burial methods, the reducing of human remains is a relatively new option for individuals to consider as part of death care.

Reduction of Human Remains. The reduction of human remains is different from a "green burial" as the human remains are reduced in a reduction chamber, not placed directly into the ground. As specified in this bill, a reduction chamber will need to be approved by the DPH before a LRF may provide services or obtain licensure. It appears that currently there is only one company, Recompose, which builds the chamber necessary for the reduction of human remains.

The reduction of human remains is also known as natural organic reduction. This type of disposition of human remains is a method that transforms human remains into soil using a natural decomposition method, which is accelerated by the addition of natural materials. According to information provided on the Recompose website, the reduction process occurs in a contained, aerated steel vessel, where the body is covered with organic material including wood chips, alfalfa, and straw. The process can take approximately six to eight weeks where the reduction will transform into a soil. The company notes that this type of reduction can result in about a cubic yard of soil per reduction. This bill would allow that *soil*, or the *reduced remains* to be returned to the environment. As currently drafted, only a licensed cremated remains disposer would be authorized to disperse those reduced human remains consistent with what is required for cremated remains and hydrolyzed remains. A cubic yard of soil is likely a larger amount for integrating into a soil amendment than scattering cremated or hydrolyzed remains. Additionally, this bill requires that a reduction facility licensee have a contractual relationship with a licensed cemetery authority for disposition of the reduced remains that are not called for or accepted by a family or loved one who is charged with the outcome of the remains.

Recompose additionally notes on its internet website, that there are disease types, which make an individual not eligible for natural organic reduction. Those include prion diseases and a highly contagious disease such as Ebola. In human burial or cremation, whenever the death occurred from a disease declared by the state department to be infectious, contagious, or communicable and dangerous to the public health, no permit for the disposition of the body can be issued by the local registrar, except under those conditions as may be prescribed by the state department and local health officers. This bill adds those same prohibitions for the reduction of human remains.

Types of Burial and Regulatory Efforts. AB 967 (Gloria, Chapter 846, Statutes of 2017) now requires the Bureau to license and regulate hydrolysis facilities and hydrolysis facilities managers effective July 1, 2020. Licensed hydrolysis facilities are required to use a hydrolysis chamber approved by DPH to hydrolyze human remains as an alternative method of disposition of human remains.

The Bureau collaborated with DPH, and subsequently drafted regulatory language to implement the requirements for hydrolysis facilities to operate. Consistent with the requirements for a hydrolysis facility as provided in AB 967, and the approval of hydrolysis facility equipment, this bill authorizes the DPH to approve the reduction chamber prior to its use, and the provisions of this bill authorize DPH to adopt and amend the rules prescribing the standards for reduction chambers to preserve public health. As currently drafted, this bill authorizes a reduction chamber manufacturer to apply to the DPH for approval. The necessity of the DPH-approval would be to ensure the destruction of any pathogenic microorganisms during the reduction process.

Licensure and regulation of reduction facilities. This bill creates a licensure program for reduction facilities, which is similar to the licensure process for crematory licenses and hydrolysis facility licenses. The provisions of this bill layout the requirements necessary to apply for a reduction facility license, including submitting a written application to the Bureau, payment of the applicable fees, demonstration of compliance with all applicable laws, and obtain any relevant local permits, along with a DPH-approved reduction chamber. This bill also delays the implementation of this program by 18 months, until July 1, 2024, to provide the Bureau and DPH with time to adopt and implement regulations related to the regulatory process for reduction chambers. There was a two-year delayed implementation date to allow for the development of regulations for hydrolysis facilities.

Fee and revenue structure. The bill authorizes the Bureau to set a licensing fee, at an amount that would not exceed the reasonable cost of administering the bill's provisions. This bill also requires the Bureau to assess a similar regulatory charge, not to exceed \$8.50, for each reduction made by a licensed reduction facility. This regulatory charge mirrors existing practice as current law specifies the same \$8.50 charge for each burial, entombment, inurnment, cremation, or hydrolysis. Revenue generating from licensing fees and regulatory assessments are deposited into the Cemetery and Funeral Fund for the administration of the licensing and enforcement activities of the Bureau.

In 2018, Recompose sponsored a research project with the Washington State University Soil Science Department to demonstrate that safety and efficacy of the process. Using six human remain research subjects, the study concluded that the “process of re-composition has been shown to effectively and quickly biologically convert human remains.”

This bill aims to model the licensure and regulation of crematories and hydrolysis facilities, and authorizes cremated remains disposers to dispose of reduced human remains. Similarly, existing law regarding the proper reporting, handling, and disposal of cremated or hydrolyzed remains will be applicable to reduced human remains.

Other States. In 2019, Washington State became the first state to legalize the reduction or composting of human remains, followed by Colorado and Oregon in 2021. There are other states that have had legislative measures introduced to consider permitting the use of natural reduction of human remains including Delaware, Hawaii, and New York.

AB 501 (Garcia of 2021) and AB 2592 (Garcia of 2020). This committee has twice heard and passed two similar measure on this topic: AB 2592 and AB 501. In the most recent committee analysis of AB 501, there were a number of policy issues raised. As currently drafted, the current version of this bill does not address those issues, as such, those issues are noted below under “policy issues for consideration”. Ultimately, both AB 2592 and AB 501 were held under submission in the Senate Committee on Appropriations.

- 3. Arguments in Support.** Californians Against Waste writes in support and notes, “Compost, however, is created through a natural process by which organics which may be human remains are allowed to decompose into a nutrient rich soil, or humus. This rich material may be used by gardeners as a soil amendment to improve soil health and perhaps to support memorial gardens. As cemeteries begin to fill up and land is less available for burial plots, Californians are looking for more sustainable death care practices. AB 351 would create an additional option for death care practice that is more environmentally friendly and sustainable.”

Recompose writes in support, “There is significant environmental benefit to adding natural organic reduction to California’s list of end-of-life options. California’s rate of cremation was over 60% in 2018. If every California resident chose natural reduction as their after-death preference, we would save nearly 2.5 million metric tons of CO₂ in just 10 years. That’s carbon-savings equivalent of the energy required to power 225,000 homes for one year or the letting 65 million seedlings grow into trees over 10 years.”

Better Place Forests writes in support, “Many Californians are looking for sustainable alternatives at the end of life. Options like natural organic reduction and scattering ashes in a forest -- which is what Better Place Forests provides -- are increasingly appealing to those who want to have a smaller environmental footprint and protect our natural resources for future generations.”

- 4. Policy Issues for Consideration.**

Soil Amounts. According to information provided on the Recompose website, the reduction of humans remains results in approximately 1 cubic yard of soil. How will the remains be transported from the facility where the reduction occurred, to the place where the remains will be integrated into the soil? Who will determine the safety standards for a reduced remains container? What are the requirements for holding reduced remains or storing at a reduction facility? The author may wish to clarify this process.

Oversight of the Large Quantities of Soil from LRFs. Currently, this bill would permit the integration into the soil of reduced remains on property where the person who has control over those remains obtains written permission from the property owner or governing agency. Should there be inspection authority over premises that accept uncollected or unwanted reduced remains to ensure that the reduced remains are not unintentionally comingled without consent of neighboring properties?

Other Studies. To date, staff is aware of only one study related to the reduction of human remains related to efficacy. It would be beneficial if additional studies were conducted to ensure that reduced human remains which are integrated in the soil is not health and safety risk to the public or the environment.

Is 18 months enough time to create a new regulatory program? As currently drafted, this bill provides a short-window for the Bureau and the DPH to develop regulations for a completely new regulatory program. The current 18-month implementation delay provided in this bill is likely not a sufficient amount of time for the Bureau to develop and seek approval for the necessary regulations required for a new licensure program for LRFs. The legislation establishing the hydrolysis program for human remains contained a delayed implementation of two-years. The author should continue to work with the Bureau and the DPH to ensure the implementation date is sufficient time to establish a new regulatory framework.

SUPPORT AND OPPOSITION:

Support:

Californians Against Waste
Better Place Forests
Recompose
Approximately 265 individuals

Opposition:

None received

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