
SENATE COMMITTEE ON HEALTH

Senator Dr. Richard Pan, Chair

BILL NO: AB 351
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SUBJECT: Reduction of human remains and the disposition of reduced human remains

SUMMARY: Establishes a new regulatory process for a Licensed Reductions Facility under the jurisdiction of the Cemetery and Funeral Bureau (Bureau) for the disposition of human remains, including the reduction of human remains. Imposes the same requirements for reduced human remains as cremated and hydrolyzed remains. Requires the Bureau and the California Department of Public Health to implement specified regulations. Delays implementation until July 1, 2024.

Existing law:

- 1) Establishes the Bureau within the Department of Consumer of Affairs (DCA) for the licensure and regulation of cemetery brokers, cemetery salespersons, cemetery managers, cemeteries, crematories, crematory managers, cremated remains disposers, and licensed hydrolysis facilities. [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) Authorizes cremated or hydrolyzed remains to be scattered in areas an area where no local prohibition exists. Requires the remains to be indistinguishable to the public and not in a container. Requires the person who has control over disposition of the cremains to obtain written permission of the property owner or governing agency to scatter on the property. Authorizes a state or local agency adopt an ordinance, regulation, or policy to authorize or prohibits the scattering of remains on lands under the agency's jurisdiction. Prohibits the scattering of remains of more than one person in one location from creating a cemetery pursuant to existing law. [BPC §7116]
- 9) 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)]
- 10) Requires the Bureau to adopt and amend rules and regulations prescribing standards for applicants for hydrolysis facility licensees, as specified. [BPC §7639.08(a)]
- 11) Requires the California Department of Public Health (CDPH) to conduct programs for the include infectious disease control and prevention, food safety, environmental health, laboratory services, patient safety, emergency preparedness, chronic disease prevention and health promotion, family health, health equity and vital records and statistics. [HSC §104100-104323]
- 12) Authorizes hydrolysis chamber manufacturers to apply to CDPH for approval of a hydrolysis chamber upon finding that the hydrolysis chamber causes the destruction of pathogenic microorganisms, as specified. [BPC §7639.08(b)]
- 13) Prohibits a permit for disposition of a body from being issued by the local county registrar if the death occurred from a disease declared by CDPH to be infectious, contagious, or communicable and dangerous to public health, as specified. [HSC §103055]
- 14) 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. [HSC §7054.1]
- 15) 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]

- 16) States that unless express written permission of 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; and,
 - 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, beginning July 1, 2024, a corporation, partnership, or natural person to operate, establish, or maintain a Licensed Reduction Facility (LRF) with a valid license issued by the Bureau. Subjects an LRF to discipline from the Bureau.
- 2) Requires an applicant for an LRF to prove compliance with all applicable laws, rules, regulations, ordinances and orders and prohibits the Bureau from issuing a license until it is satisfied that public interest, human health, and environmental quality is served by the applicant. Requires an applicant for a license to present the Bureau any state or locally required permits for business operations.
- 3) Requires any change in ownership of an LRF to be reported to the Bureau, and a transfer in a single transaction or related transactions of more than 50% of the equitable interest in an LRF to constitute a change of ownership. Requires, when a change in ownership in an LRF occurs, the existing license to lapse and requires the new owner to obtain a license from the Bureau, as specified.
- 4) Requires the Bureau to adopt, and amend as necessary, rules and regulations prescribing standards for applicants for LRF licenses. Authorizes the Bureau to consider acts of an applicant, including those of its incorporators, officers, directors, and stockholders of the applicants in reviewing an application.
- 5) Requires CDPH to adopt, and permits it to 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 micro-organisms. Authorizes a reduction chamber manufacturer to apply to CDPH for approval of its product and for sale and use in the state. Requires CDPH to charge an application fee for approval of a reduction chamber to cover the reasonable regulatory costs, as specified.
- 6) Requires the Bureau to issue a license to only those applicants that will employ a reduction chamber approved by CDPH and prohibits a LRF from using a reduction chamber unless it has been approved by CDPH.
- 7) Requires an LRF to ensure or conduct annual maintenance of all reduction chambers in their use. Prohibits the Bureau from renewing an LRF license without proof of annual maintenance of all reduction chambers in use by the facility.

- 8) Prohibits an LRF from conducting the reduction of human remains unless all of the following conditions are met:
- a) The facility is operated under the supervision of a manager qualified with rules operated by the Bureau. Permits a licensed crematory manager to be designated as a reduction facility manager with appropriate certification demonstrating an understanding of the applicable law;
 - 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, as specified;
 - c) Reduction of the remains begins not more than 24 hours after delivery of the remains to the licensee, unless the remains have been preserved in the interim by refrigeration; and,
 - d) The licensee has either:
 - i) A contractual relationship with a licensed cemetery authority for final disposition of reduced human remains by burial, entombment, or inurnment of any remains that are not lawfully disposed of or 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; or,
 - ii) 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.
- 9) 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.
- 10) Requires the Bureau to establish the fee to obtain or renew a reduction facility license. Requires the Bureau to set the fees in amounts that cumulatively do not exceed the reasonable of administering the licensing program, and the fee for individual reductions may not exceed \$8.50 per reduction. Requires LRFs to pay an additional charge per reduction made during the preceding quarter, as set by the Bureau.
- 11) Establishes the following definitions:
- a) "Reduction facility" means a structure, room, or other space in a building or real property where natural, organic reduction of a human body occurs;
 - b) "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;
 - c) "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 the following steps:
 - i) 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;

- ii) Large tanks, containers, or similar vessels hold human remains together with straw, wood chips, or other natural materials for four to six weeks until the process is complete; and,
 - iii) The processing of the remains after removal from the reduction chamber;
- d) “Reduction chamber” means the enclosed space within which individual human remains are reduced and any other attached, non-enclosed, mechanical components that are necessary for the safe and proper functioning of the equipment, and requires a reduction chamber to meet or exceed the requirements set by CDPH and the federal Centers for Disease Control and Prevention (CDC) for destruction of human pathogens, as specified.
 - e) “Reduced human remains container” to mean a receptacle into which human remains are placed after reduction.
 - f) “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, or other area in the state where integration is permitted, and soil remains are intended to act as a “soil amendment”. Defines “soil amendment” as any material added to a soil to improve its physical properties, as specified.
- 12) Adds to the existing definition of “processing,” for purposes of reduced human remains, to mean the removal of foreign objects, as specified, and necessary preparation for the reduced human remains to be integrated into the soil.
- 13) Imposes the same requirements for reduced human remains as exists for cremated human remains or hydrolyzed remains, for registered cremated remains disposers, funeral directors, and funeral establishments, as specified. Imposes similar penalty violations for removal or reduced remains, as specified. Imposes the same requirements for the integration of reduced remains into the soil as the scattering of cremated or hydrolyzed remains, as specified.
- 14) Prohibits a person, unless expressly authorized by the person entitled to control the disposition of human remains, from doing any of the following:
- a) Reduce the remains of more than one person at the same time and in the same reduction chamber, or introduce the remains of a second person into the reduction chamber until the reduction of preceding remains has been terminated and reasonable efforts made to remove fragments of preceding remains, as specified;
 - b) Dispose of human remains in a manner or location that the remains are commingled with another person, as specified; or,
 - c) Place reduced human remains, or the remains of more than one person in the same reduced human remains container, except as follows: members of the same family, placed in a container previously designated at the time of sale as being intended for more than one person, disposal of the residue in the reduction chamber, or a written authorization by the person entitled to control the disposition of human remains into the soil of a conservation area.
- 15) Prohibits an 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.
- 16) Requires an LRF to maintain on its premises, or other business location within the state, an accurate record of all reductions performed, including the following:

- a) Name of referring funeral director, if any, name of the deceased, and date of reduction;
 - b) Disposition of the reduced human remains, including split disposition where a portion of the remains are returned to the person entitled to control the disposition of the remains and a portion integrated into the soil in a conservation area, as specified;
 - c) Time and date body was inserted into and removed from the LRF;
 - d) Time and date that final processing of the reduced remains was complete;
 - e) Name and address of the authorizing agent;
 - f) Identification number assigned to the deceased, as specified;
 - g) A photocopy of the disposition permit filed in connection with the disposition; and,
 - h) Any documentation of compliance with appropriate environmental and safety laws.
- 17) Requires LRFs to maintain documentation of specified materials for at least 10 years after the reduction is performed and requires the documentation to be subject to inspection by the Bureau.
- 18) Requires an LRF to maintain a system allowing identification of each decedent, beginning from the time the reduction facility accepts delivery of remains until the point at which it releases the reduced human remains to a third party. Requires, after the reduction, an identifying disk, tab, or other permanent label, 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 the LRF license number and a unique identification number, as specified.
- 19) Provides 15 days from the date of a failure to provide the cemetery and the Bureau with the written procedure for identification of remains to produce the procedure before licensure suspension, as specified.
- 20) Requires an LRF to refrigerate a body within two hours of taking custody if the body was not embalmed, as specified.
- 21) Requires an LRF, or its authorized representatives, to provide instruction to all 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.
- 22) Prohibits an employee from operating a reduction chamber or related equipment until the employee has demonstrated, to the LRF certified manager 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.
- 23) 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.
- 24) Incorporates the reduction of human remains into the requirements for the certificate of death, as specified. Adds reduced human remains to the requirements for a permit for disposition of remains, as specified.

25) Makes other technical and conforming changes. Delays the implementation of this bill until July 1, 2024.

FISCAL EFFECT: This bill has not been analyzed by a fiscal committee.

PRIOR VOTES: Not relevant.

COMMENTS:

- 1) *Author's statement.* According to the author, this bill will provide an additional option for California residents that is more environmentally friendly and gives them another choice for burial. With climate change and sea-level rise as very real threats to our environment, this is an alternative method of final disposition that will not contribute emissions into our atmosphere. For each individual who chooses NOR over conventional burial or cremation, the process saves the equivalent of one metric ton of carbon from entering the environment. As cemeteries fill up and people look for more sustainable death care practices, natural reduction facilities give families another option so that they can use the soil to plant a tree or memorial garden honoring loved ones. Trees are important carbon breaks for the environment. They are the best filters for air quality and if more people participate in organic reduction and tree planting, we can help with California's carbon footprint.
- 2) *NOR.* NOR is a method that transforms human remains into soil using the natural decomposition process, accelerated by the addition of natural materials. Generally, NOR occurs in a contained, aerated steel vessel, where the body is covered with organic material including wood chips, alfalfa, and straw. Throughout approximately 30 days, microbes that naturally occur in the air and on the organic materials decompose the human body at an accelerated pace. The chamber undergoes mixing at several intervals to continue the aerobic process and ensure that all the entire body – including bones and teeth – is fully broken down and transformed. At the end of the process, non-organic materials, such as metal surgical or dental implants, are removed. The transformation results in soil – defined as “reduced human remains” under this bill – that is dark brown in appearance. Generally, the preferred method of disposal is integrating the remains as a soil amendment for trees or plants. In 2019, Washington become the first state to approve NOR as an alternative to burying or cremating human remains. Colorado approved NOR as a burial option in May 2021. It appears there is only one company, Recompose, provides NOR services.
- 3) *Research on NOR.* Research on human NOR is limited. However, there is a wide range of academic studies on animal reduction, which has been used to dispose of deceased animals in agriculture, meat processing and distribution, or environmental management. With the exception of rare cases, the safety of animal composting has become well documented. According to the Department of Crop and Soil Sciences at the Cornell Waste Management Institute, composting provides an alternative to traditional carcass disposal as it can be less expensive, is self-sufficient and is biosecure. The temperatures achieved through the composting process may eliminate or greatly reduce pathogens, hindering the spread of disease. Research continues to demonstrate effective destruction of nearly all livestock diseases of concern. Properly composted material is environmentally safe and a useful soil amendment.

In 2018, Recompose sponsored a research project with the Washington State University Soil Science Department to demonstrate that safety and efficacy of the NOR process. Using six human research subjects, the study concluded that the process of recomposition has been

shown to effectively and quickly biologically convert human remains. Final material was obtained that was unrecognizable visually, chemically, or microbiologically as human remains. Similar to animal composting, human NOR can reach temperatures high enough to destroy almost all harmful pathogens, and transform the body, wood chips, and straw into a final material which is safe for humans and plant life. The 2018 Washington State University Study has not yet been published in a peer-reviewed journal.

Recompose notes that there are two disease types that disqualify a person from being eligible for natural organic reduction: Ebola and prion diseases. Prion diseases are a family of rare neurodegenerative disorders that affect both humans and animals, and existing scientific research has not yet proven that prions are broken down during the NOR process. Existing law prohibits a permit for disposition of a body from being issued by the local county registrar if the death occurred from a disease declared by CDPH to be infectious, contagious, or communicable and dangerous to public health. This bill would apply the same provisions to human remains intended for NOR.

- 4) *CDPH's role.* AB 967 (Gloria, Chapter 846, Statutes of 2017) requires the Bureau to license and regulate hydrolysis facilities and hydrolysis facilities managers beginning July 1, 2020. Alkaline hydrolysis is a process by which human remains are reduced to bone fragments with the utilization of water and a blended alkaline solution, combined with heat and pressure. Licensed hydrolysis facilities are required to use a hydrolysis chamber approved by CDPH to hydrolyze human remains as an alternative method of disposition of human remains. The Bureau collaborated with CDPH, and subsequently drafted regulatory language to implement the requirements for hydrolysis facilities to operate. The regulations were approved June 17, 2021. This bill applies similar provisions to NOR, requiring CDPH to establish regulations and guidelines on reduction chambers, authorizing CDPH to approve reduction chambers, and requiring the Bureau to only approve LRF who use CDPH approved reduction chambers.
- 5) *Double referral.* This bill was heard in the Senate Business, Professions and Economic Develop Committee on June 13, 2022, and passed by a 10-0 vote
- 6) *Prior legislation.* AB 501 (Garcia of 2021) and AB 2592 (Garcia of 2020) were substantially similar to this bill. *AB 501 and AB 2592 were held on the Senate Committee on Appropriations suspense file.*

AB 967 (Gloria, Chapter 846, Statutes of 2017) established the regulatory process for hydrolysis facilities under the Bureau beginning July 1, 2020; imposes the same requirements on hydrolyzed remains as for cremated remains; specifies training standards for hydrolysis facility employees; and, specifies the requirements for disposal of hydrolysate.

AB 764 (Linder of 2014) would have established a pilot program that authorized the Bureau to offer a limited crematory license to no more than five alkaline hydrolysis facilities as specified, and repealed that authority on January 1, 2020. *AB 764 was not heard in the Senate Committee on Environmental Quality.*

AB 1615 (Miller of 2012) and AB 4 (Miller of 2011) would have authorized the Bureau to license and regulate hydrolysis facilities and hydrolysis facility managers. *AB 1615 was held on the suspense file in the Senate Committee on Appropriations and AB 4 was held in the Assembly Committee on Appropriations.*

AB 2283 (Miller of 2010) would have required the Bureau to adopt regulations for the safe operation of alkaline hydrolysis chambers by July 1, 2011. *AB 2283 was not heard in the Senate Committee on Environmental Quality.*

- 7) *Support.* Californians Against Waste writes that compost 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. This bill would create an additional option for death care practice that is more environmentally friendly and sustainable. Recompose writes 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 ten 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 states that 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.

- 8) *Opposition.* The California Catholic Conference writes that dispersing remains in public locations, without an advisory to members of the public, risks people treading over human remains without their knowledge while repeated dispersions in the same area are tantamount to a mass grave. A simple burial or cremation, for instance, maintains the dignity of the deceased while avoiding the potential of the public not being aware of the presence of human remains or an inadvertent mass gravesite. They state that the NOR process also remains unproven for human remains. Proponents rely on one study, which has not been peer-reviewed, to contend that all toxic elements of the body (e.g., dental implants) and pathogens are properly eliminated before spreading the remains.

- 9) *Amendments.* The author requests the Committee approve amendments to push out the implementation date by six months, to January 1, 2025.

SUPPORT AND OPPOSITION:

- Support:** Better Place Forests
 Californians Against Waste
 Commerce Hotel and Casino
 Earth Funeral Group
 Recompose
- Oppose:** California Catholic Conference

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