
THIRD READING

Bill No: AB 351
Author: Cristina Garcia (D) and Robert Rivas (D), et al.
Amended: 8/25/22 in Senate
Vote: 21

PRIOR VOTES NOT RELEVANT

SENATE BUS., PROF. & ECON. DEV. COMMITTEE: 10-0, 6/13/22
AYES: Roth, Melendez, Becker, Eggman, Hurtado, Jones, Leyva, Newman,
Ochoa Bogh, Pan
NO VOTE RECORDED: Archuleta, Bates, Dodd, Min

SENATE HEALTH COMMITTEE: 9-0, 6/22/22
AYES: Pan, Melendez, Eggman, Gonzalez, Leyva, Limón, Roth, Rubio, Wiener
NO VOTE RECORDED: Grove, Hurtado

SENATE APPROPRIATIONS COMMITTEE: 6-0, 8/11/22
AYES: Portantino, Bradford, Jones, Laird, McGuire, Wieckowski
NO VOTE RECORDED: Bates

SUBJECT: Reduction of human remains and the disposition of reduced human remains

SOURCE: Author

DIGEST: This bill establishes a new regulatory process for a Licensed Reductions 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 January 1, 2027.

Senate Floor Amendments of 8/25/22 delay implementation of this bill until January 1, 2027.

ANALYSIS:

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. (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)

This bill:

- 1) Authorizes a corporation, partnership, or natural person to operate, establish, or maintain an LRF with a valid license issued by the Bureau.
- 2) Requires an application for an LRF to be made on a form approved by the Bureau, as specified, and 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 constitutes a change of ownership. Requires when a change in ownership in an LRF occurs, the existing reduction facility license lapses and the new owner must obtain a new license from the Bureau, as specified.
- 3) 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 micro-organisms, and permits an LRF to apply to the DPH for approval of a reduction chamber.
- 4) Requires an LRF to ensure or conduct annual maintenance of all reduction chambers in use by the facility, and prohibits the Bureau from renewing an LRF without proof of annual maintenance, as specified. Prohibits an LRF from conducting the reduction of human remains unless specified conditions are met.

- 5) 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.
- 6) Subjects an LRF to discipline from the Bureau.
- 7) Makes various definitions related to an LRF and reducing human remains.
- 8) Prohibits certain actions related to reducing human remains. Requires an LRF to maintain on its premises or other business location within the state records of the maintenance performed on the reduction chamber. Requires an 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.
- 9) Requires an 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. 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.
- 10) 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.
- 11) Imposes similar penalty violations for removal or reduced remains, as specified, and imposes the same requirements for the integration of reduced remains into the soil as the scattering of cremated or hydrolyzed remains, as specified. Incorporates the reduction of human remains into the requirements

for the certificate of death, as specified

- 12) Adds reduced human remains to the requirements for a permit for disposition of remains, as specified, and requires a cremated remains disposer to document and retain all permits and private authorizations required for all reduced remains that were integrated into soil outside of a cemetery.
- 13) Delays the implementation of this bill until January 1, 2027, and makes other technical and clarifying changes.

Background

Regulatory Function of the Bureau. The Bureau regulates more than 13,000 licensees in 13 different licensing categories. 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. This bill aims to model the licensure and regulation of reduction facilities based on the newly authorized provisions established for hydrolysis facilities.

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 and not placed directly into the ground. The reduction of human remains is also known as natural organic reduction. This bill would allow the *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. Additionally, this bill requires a reduction facility licensee to have a contractual relationship with a licensed cemetery authority for disposition of reduced remains that are not called for or accepted.

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 managers beginning 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. 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.

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 such 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.

Fee and revenue structure. This 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.

FISCAL EFFECT: Appropriation: Yes Fiscal Com.: Yes Local: Yes

According to the Senate Appropriations Committee, DPH estimates total General Fund costs of \$1,095,000 over the first three years of the program and \$193,000 ongoing. The Bureau anticipates costs of approximately \$6,000 for staff time associated with reviewing and processing applications and ongoing annual revenue increases of approximately \$4,500 for initial application and license renewal fees, which may offset its administrative costs to some extent. The Office of Information Services within the DCA estimates a total one-time IT impact of \$140,000 to create a new platform, which may be absorbed through the re/direction of existing maintenance resources.

SUPPORT: (Verified 8/25/22)

Californians Against Waste
Better Place Forests
Recompose
265 Individuals

OPPOSITION: (Verified 8/25/22)

California Catholic Conference

ARGUMENTS IN SUPPORT: Supporters note that this bill expands end of life burial options and provides an environmental friendly and sustainable alternative.

ARGUMENTS IN OPPOSITION: The California Catholic Conference writes in opposition and notes, “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.”

ASSEMBLY FLOOR: 77-0, 4/29/21

AYES: Aguiar-Curry, Arambula, Bauer-Kahan, Bennett, Berman, Bigelow, Bloom, Boerner Horvath, Burke, Calderon, Carrillo, Cervantes, Chau, Chen, Chiu, Choi, Cooley, Cooper, Cunningham, Megan Dahle, Daly, Davies, Flora, Fong, Frazier, Friedman, Gabriel, Gallagher, Cristina Garcia, Eduardo Garcia, Gipson, Lorena Gonzalez, Gray, Grayson, Holden, Irwin, Jones-Sawyer, Kalra, Kiley, Lackey, Lee, Levine, Low, Maienschein, Mathis, Mayes, McCarty, Medina, Mullin, Muratsuchi, Nazarian, Nguyen, O'Donnell, Patterson, Petrie-Norris, Quirk, Quirk-Silva, Ramos, Reyes, Robert Rivas, Rodriguez, Blanca Rubio, Salas, Santiago, Seyarto, Smith, Stone, Ting, Valladares, Villapudua, Voepel, Waldron, Ward, Akilah Weber, Wicks, Wood, Rendon

NO VOTE RECORDED: Luz Rivas

Prepared by: Elissa Silva / B., P. & E.D. /916-651-4104
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