

UNOFFICIAL COPY OF HOUSE BILL 1060

HOUSE BILL 1060

J2, C2, J1

3lr2814

By: **Delegates Kaiser, Charkoudian, Solomon, and Woods**

Introduced and read first time: February 10, 2023

Assigned to: Health and Government Operations

A BILL ENTITLED

1 AN ACT concerning

2 **Cremations - Natural Organic Reduction - Regulation**

3 FOR the purpose of regulating cremations that reduce human remains to soil through
4 natural organic reduction; ~~specifying that the State Board of Morticians and Funeral~~
5 ~~Directors has exclusive authority to license and regulate a crematory that only~~
6 ~~performs cremations that reduce human remains to soil through natural organic~~
7 ~~reduction~~ altering the process for regulating crematories that the Director of the Office of
Cemetery Oversight and the State Board of Morticians and Funeral Directors are required to establish to
include registration and operating requirements necessary for crematories that perform cremations using
natural organic reduction; and generally relating to cremation and natural organic reduction.

8 BY repealing and reenacting, without amendments,
9 Article - Business Regulation
10 Section 5-101(a) and (f)
11 Annotated Code of Maryland
12 (2015 Replacement Volume and 2022 Supplement)

13 BY repealing and reenacting, with amendments,
14 Article - Business Regulation
15 Section 5-101(e), ~~5-102(b)~~, and 5-204(a)
16 Annotated Code of Maryland
17 (2015 Replacement Volume and 2022 Supplement)

18 BY adding to
19 Article - Business Regulation
20 Section 5-101(l-1)
21 Annotated Code of Maryland
22 (2015 Replacement Volume and 2022 Supplement)

23 BY repealing and reenacting, with amendments,
24 Article - Health - General
25 Section 5-505 ~~and~~ 5-508, and 5-513(a)
26 Annotated Code of Maryland
27 (2019 Replacement Volume and 2022 Supplement)

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1 BY repealing and reenacting, without amendments,
 2 Article - Health Occupations
 3 Section 7-101(a) ~~and (d) and (i)~~
 4 Annotated Code of Maryland
 5 (2021 Replacement Volume and 2022 Supplement)

6 BY repealing and reenacting, with amendments,
 7 Article - Health Occupations
 8 Section 7-101(h), (t), (u), (v), and (w), ~~7-102(b)~~, and 7-205(c)
 9 Annotated Code of Maryland
 10 (2021 Replacement Volume and 2022 Supplement)

11 BY adding to
 12 Article - Health Occupations
 13 Section 7-101(t) ~~and 7-205(d)~~
 14 Annotated Code of Maryland
 15 (2021 Replacement Volume and 2022 Supplement)

16 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,
 17 That the Laws of Maryland read as follows:

18 **Article - Business Regulation**

19 5-101.

20 (a) In this title the following words have the meanings indicated.

21 (e) "Cremation" means the process of reducing human remains to:

22 (1) bone fragments through intense heat and evaporation, including any
 23 mechanical or thermal process; OR

24 (2) SOIL THROUGH NATURAL ORGANIC REDUCTION.

(f) "Crematory" means a building, portion of a building, or structure that houses the necessary appliances and facilities for cremation.

25 (L-1) "NATURAL ORGANIC REDUCTION" MEANS A CONTROLLED,
 26 ACCELERATED CONVERSION OF HUMAN REMAINS TO SOIL.

27 ~~5-102.~~

28 (b) ~~This title does not apply to:~~

29 (1) ~~the operation of a funeral establishment, including the sale of burial~~
 30 ~~goods in the ordinary course of the funeral establishment's business;~~

31 (2) ~~the operation or ownership of a crematory in which:~~

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1 ~~(1) a person who is licensed and regulated under Title 7 of the~~
 2 ~~Health Occupations Article owns a greater percentage of the crematory than a registered~~
 3 ~~cemeterian, registered seller, or holder of a permit for the operation of a cemetery or burial~~
 4 ~~goods business; OR~~

5 ~~(H) ONLY CREMATIONS, AS DEFINED IN § 5-101(E)(2) OF THIS~~
 6 ~~SUBTITLE, ARE PERFORMED;~~

7 ~~(3) the operation or ownership of a crematory or incinerator at a licensed~~
 8 ~~medical facility or educational institution;~~

9 ~~(4) a licensed funeral director acting within the scope of the funeral~~
 10 ~~director's license; or~~

11 ~~(5) a mortician acting within the scope of the mortician's license.~~

12 5-204.

13 (a) (1) With the advice of the Advisory Council and after consultation with
 14 representatives of the cemetery industry, the Director shall adopt:

15 (i) rules and regulations to carry out this title; and

16 (ii) a code of ethics for engaging in the operation of a cemetery or
 17 crematory or providing burial goods.

18 (2) (I) ~~THIS PARAGRAPH DOES NOT APPLY WITH RESPECT TO A~~
 19 ~~CREMATORY IN WHICH ONLY CREMATIONS, AS DEFINED IN § 5-101(E)(2) OF THIS~~
 20 ~~TITLE, ARE PERFORMED.~~

21 ~~(H)~~ In conjunction with the State Board of Morticians and Funeral
 22 Directors, the Director shall:

23 [(i)] 1. Establish a process for regulating crematories that
 24 provides for:

25 [1.] A. registration of crematory operators or issuance of
 26 permits for operating crematories, and renewal, INCLUDING ANY REGISTRATION REQUIREMENTS NECESSARY FOR
CREMATORIES THAT PERFORM CREMATIONS USING NATURAL ORGANIC REDUCTION;

B. OPERATING REQUIREMENTS NECESSARY FOR CREMATORIES
THAT PERFORM CREMATIONS USING NATURAL ORGANIC REDUCTION;

27 [2.] ~~B.~~ C.
 28 applications, including certification of ownership
 and identification of individuals who will perform cremation;

29 [3.] ~~C.~~ D. registration and permit fees;

30 [4.] ~~D.~~ E. inspections and oversight;

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1 [5.] ~~F.~~ **F.** grounds for discipline and penalties; and

2 [6.] ~~F.~~ **G.** complaints and hearings; and

3 [(ii)] **2.** adopt regulations that are identical to regulations adopted
4 by the State Board of Morticians and Funeral Directors to:

5 [1.] **A.** implement item [(i)] **1** of this [paragraph]
6 **SUBPARAGRAPH**; and

7 [2.] **B.** ensure public health and safety.

(ii) FOR THE PURPOSE OF IMPLEMENTING SUBPARAGRAPH (I)1B OF THIS PARAGRAPH, THE REGULATIONS ADOPTED UNDER SUBPARAGRAPH (I)2 OF THIS PARAGRAPH:

1. SHALL PROVIDE MINIMUM TRAINING REQUIREMENTS FOR INDIVIDUALS WHO ARE RESPONSIBLE FOR OPERATING A CREMATORY OR WHO WILL PERFORM OR SUPERVISE CREMATIONS THAT USE NATURAL ORGANIC REDUCTION; AND

2. MAY PROVIDE ALTERNATIVES FOR THE DISPOSITION OF SOIL PRODUCED BY NATURAL ORGANIC REDUCTION THAT IS UNCLAIMED AFTER REASONABLE NOTICE IS GIVEN TO THE NEXT OF KIN OF THE DECEASED OR OTHER PERSON WHO AUTHORIZED THE CREMATION.

8 **Article - Health - General**

9 5-505.

10 (a) Except as provided in subsection (b) of this section, a person may not require
11 that a cremation be performed with a casket. However, the use of a simple container may
12 be required.

13 (b) The person arranging for final disposition of a body may specify that a casket:

14 (1) Be used before cremation;

15 (2) Be consumed during ~~A cremation, AS DEFINED IN § 5-508(C)(1) OF~~
16 ~~THIS SUBTITLE THAT USES AN INCINERATION PROCESS;~~

17 (3) Be used after cremation; or

18 (4) Not be used before, during, or after cremation.

19 5-508.

20 (a) In this subtitle the following words have the meanings indicated.

21 (b) "Authorizing agent" means the individual who has legal authority to arrange
22 for and make decisions regarding the final disposition of a dead human body, including by
23 cremation.

24 (c) "Cremation" means [the disposition of a dead human body by means of
25 incineration] **THE PROCESS OF REDUCING HUMAN REMAINS TO:**

26 **(1) BONE FRAGMENTS THROUGH INTENSE HEAT AND EVAPORATION,**
27 **INCLUDING ANY MECHANICAL OR THERMAL PROCESS; OR**

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1 **(2) SOIL THROUGH NATURAL ORGANIC REDUCTION.**

2 (d) "Crematory" ~~is~~ **MEANS** a building ~~in which cremations are performed~~, **PORTION**
OF A BUILDING, OR STRUCTURE THAT HOUSES THE NECESSARY APPLIANCES AND FACILITIES FOR CREMATION.

3 (e) "Decedent" means a dead human being.

4 **(F) "NATURAL ORGANIC REDUCTION" MEANS A CONTROLLED,**
 5 **ACCELERATED CONVERSION OF HUMAN REMAINS TO SOIL.**

6 ~~[(f)]~~ **(G)** "Practitioner" means a person who is licensed by the State as a funeral
 7 director, mortician, or surviving spouse licensee to practice mortuary science.

8 ~~[(g)]~~ **(H)** "Pre-need contract" means an agreement prior to the time of death
 9 between a consumer and a practitioner to provide any goods and services regarding the
 10 final disposition of a dead human body.

5-513.

(a) On taking custody of the body of a decedent in accordance with all
authorizations required by law, a funeral establishment or crematory shall maintain
the body in a manner that provides for complete coverage of the body and prevents
leakage or spillage except during:

(1) Identification, embalming, or preparation of an unembalmed body for
final disposition;

(2) Restoration and dressing of a body in preparation for final disposition;
[and]

(3) FINAL DISPOSITION USING A CREMATION PROCESS THAT DOES NOT
INVOLVE INCINERATION; AND

~~[(3)]~~ **(4)** Viewing during a visitation or funeral
service.

11 **Article - Health Occupations**

12 7-101.

13 (a) In this title the following words have the meanings indicated.

14 (d) "Board" means the State Board of Morticians and Funeral Directors.

15 (h) "Cremation" means the process of reducing human remains to **[bone]:**

16 **(1) BONE** fragments through intense heat and evaporation, including any
 17 mechanical or thermal process; **OR**

18 **(2) SOIL THROUGH NATURAL ORGANIC REDUCTION.**

(i) "Crematory" means a building, portion of a building, or structure that
houses the necessary appliances and facilities for cremation.

19 **(T) "NATURAL ORGANIC REDUCTION" MEANS THE CONTROLLED,**
 20 **ACCELERATED CONVERSION OF HUMAN REMAINS TO SOIL.**

21 ~~[(t)]~~ **(U)** (1) "Practice funeral direction" means:

22 (i) To operate a funeral establishment;

23 (ii) For compensation, to prepare a dead human body for disposition;

24 or

25 (iii) For compensation, to arrange for or make final disposition of a
26 dead human body.

27 (2) "Practice funeral direction" does not include:

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1 (i) For compensation, disinfecting or preserving a dead human body
2 or any of its parts by arterial or cavity injection or any other type of preservation; ~~for~~

3 (ii) ~~DISPOSING OF A DEAD HUMAN BODY OR ANY OF ITS PARTS~~
4 ~~BY NATURAL ORGANIC REDUCTION; OR~~

5 ~~(iii)~~ The business of operating a crematory.

6 [(u)] (v) (1) "Practice mortuary science" means:

7 (i) To operate a funeral establishment;

8 (ii) For compensation, to prepare a dead human body for disposition;
9 or

10 (iii) For compensation, to arrange for or make final disposition of a
11 dead human body.

12 (2) "Practice mortuary science" includes:

13 (i) The practice of funeral direction; ~~and~~

14 (ii) ~~DISPOSING OF A DEAD HUMAN BODY OR ANY OF ITS PARTS~~
15 ~~BY NATURAL ORGANIC REDUCTION; AND~~

16 ~~(iii)~~ Disinfecting or preserving a dead human body or any of its parts
17 by arterial or cavity injection.

18 (3) "Practice mortuary science" does not include:

19 (i) The pickup, removal, or transportation of a dead human body, if
20 the unlicensed individual is acting under the direction of a licensed mortician or funeral
21 director; or

22 (ii) The business of operating a crematory.

23 [(v)] (w) "Pre-need contract" means an agreement between a consumer and a
24 licensed funeral director, licensed mortician, or surviving spouse to provide any goods and
25 services purchased prior to the time of death. Goods and services shall include:

26 (1) A service, including any form of preservation and disposition or
27 cremation, that a mortician normally provides in the ordinary course of business; or

28 (2) Merchandise, including a casket, vault, or clothing, that a mortician
29 normally provides in the ordinary course of business.

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1 [(w)] (X) "Surviving spouse" means the legal widow or widower of a licensed
2 funeral director or licensed mortician, whose license was in good standing at the time of
3 death, and who at the time of death, wholly or partly owned and operated a mortuary
4 science business.

5 ~~7-102.~~

6 (b) (1) ~~In this subsection, "registrant or permit holder" means a person
7 regulated under Title 5 of the Business Regulation Article as a registered cemeterian,
8 registered seller, or holder of a permit to operate a cemetery or burial goods business.~~

9 (2) ~~This title does not apply to:~~

10 (i) ~~The business of operating a cemetery, including the sale of
11 cemetery lots, grave sites, mausoleums, monuments, lawn crypts, or vaults;~~

12 (ii) ~~The ownership of a crematory or the business of operating a
13 crematory in which:~~

14 ~~1. CREMATIONS OF BOTH TYPES DESCRIBED IN §
15 7-101(B) OF THIS SUBTITLE OR ONLY CREMATIONS DESCRIBED IN § 7-101(B)(1) OF
16 THIS SUBTITLE ARE PERFORMED; AND~~

17 ~~[1.] 2. A. A registrant or permit holder owns a greater
18 percentage of the crematory than a person licensed under this title;~~

19 ~~[2.] B. Ownership is equal between a registrant or permit
20 holder and a person licensed under this title; or~~

21 ~~[3.] C. Neither a registrant, permit holder, or person
22 licensed under this title has an ownership interest in the crematory; or~~

23 (iii) ~~The ownership of a crematory or the business of operating a
24 crematory or incinerator at a licensed medical facility or educational institution.~~

25 7-205.

26 (c) (1) ~~THIS SUBSECTION DOES NOT APPLY WITH RESPECT TO A
27 CREMATORY IN WHICH ONLY CREMATIONS AS DEFINED IN § 5-101(E)(2) ARE
28 PERFORMED.~~

29 (2) In conjunction with the Office of Cemetery Oversight, the Board shall:

30 [(1)] (I) Establish a process for regulating crematories that provides for:

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1 [(i)] 1. Registration of crematory operators or issuance of permits
 2 for operating crematories, and renewal , INCLUDING REGISTRATION REQUIREMENTS NECESSARY FOR CREMATORIES
THAT PERFORM CREMATIONS USING NATURAL ORGANIC REDUCTION;

2. OPERATING REQUIREMENTS NECESSARY FOR CREMATORIES
THAT PERFORM CREMATIONS USING NATURAL ORGANIC REDUCTION

3 [(ii)] ~~2~~ **3.**
 Applications, including certification of ownership and
 4 identification of individuals who will perform cremation;

5 [(iii)] ~~3~~ **4.** Registration or permit fees;

6 [(iv)] ~~4~~ **5.** Inspections and oversight;

7 [(v)] ~~5~~ **6.** Grounds for discipline and penalties; and

8 [(vi)] ~~6~~ **7.** Complaints and hearings; and

9 [(2)] (II) Adopt regulations that are identical to regulations adopted by
 10 the Director of the Office of Cemetery Oversight to:

11 [(i)] 1. Implement item [(1)] (I) of this [subsection]
 12 PARAGRAPH; and

13 [(ii)] 2. Ensure public health and safety.

(2) FOR THE PURPOSE OF IMPLEMENTING PARAGRAPH (1)(I)2 OF THIS
SUBSECTION, THE REGULATIONS ADOPTED UNDER PARAGRAPH (1)(II) OF THIS
SUBSECTION:

(I) SHALL ESTABLISH MINIMUM TRAINING REQUIREMENTS FOR
INDIVIDUALS WHO ARE RESPONSIBLE FOR OPERATING THE CREMATORY OR WHO WILL PERFORM
OR SUPERVISE CREMATIONS THAT USE NATURAL ORGANIC REDUCTION; AND

(II) MAY PROVIDE ALTERNATIVES FOR THE DISPOSITION OF SOIL
PRODUCED BY NATURAL ORGANIC REDUCTION THAT IS UNCLAIMED AFTER REASONABLE NOTICE
IS GIVEN TO THE NEXT OF KIN OF THE DECEASED OR OTHER PERSON WHO AUTHORIZED THE
CREMATION.

14 ~~(D) THE BOARD HAS EXCLUSIVE AUTHORITY TO LICENSE AND REGULATE A~~
 15 ~~CREMATORY THAT ONLY PERFORMS CREMATIONS AS DEFINED IN § 7-101(E)(2) OF~~
 16 ~~THIS TITLE.~~

17 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect
 18 October 1, 2023.