

1 H.773

2 Introduced by Representatives Lippert of Hinesburg, Partridge of Windham,
3 Bartholomew of Hartland, Conquest of Newbury, Fegard of
4 Berkshire, O'Brien of Tunbridge, Sheldon of Middlebury,
5 Trieber of Rockingham, and Webb of Shelburne

6 Referred to Committee on

7 Date:

8 Subject: Health; public health; disposition of human remains; natural organic
9 reduction

10 Statement of purpose of bill as introduced: This bill proposes to allow for the
11 permanent disposition of human remains by natural organic reduction. It
12 would give operators of natural organic reduction facilities the same rights and
13 responsibilities as the operators of crematory establishments.

14 An act relating to authorizing the natural organic reduction of human
15 remains

16 It is hereby enacted by the General Assembly of the State of Vermont:

17 * * * Deaths, Burials, and Autopsies * * *

18 Sec. 1. 18 V.S.A. § 5200 is added to read:

19 § 5200. DEFINITIONS

20 As used in this chapter:

1 person in charge has received a certificate from the chief, regional, or assistant
2 medical examiner that the medical examiner has made personal inquiry into the
3 cause and manner of death and is satisfied that no further examination or
4 judicial inquiry concerning it is necessary. Upon request of a funeral director,
5 the person in charge of the body, or the ~~crematory~~ operator of a crematory
6 establishment or natural organic reduction facility, the Chief Medical
7 Examiner shall issue a cremation or natural organic reduction certificate after
8 the medical examiner has completed an autopsy. The certificate shall be
9 retained by the crematory establishment or natural organic reduction facility, as
10 applicable, for a period of three years. The person requesting cremation or
11 natural organic reduction shall pay the ~~department~~ Department a fee of \$25.00.

12 (d)(1) For all cremations or natural organic reductions requested for the
13 body of a person who died outside Vermont, the ~~crematory~~ operator of a
14 crematory establishment or natural organic reduction facility shall do the
15 following before conducting the cremation or natural organic reduction:

16 (A) obtain a permit for transit or ~~cremation~~ permanent disposition;
17 and

18 (B) comply with the laws of the state in which the person died,
19 including obtaining a copy of a medical examiner's permit if one is required.

1 (2) No additional approval from the Vermont medical examiner's office
2 is required if compliance with the laws of the state in which the person died is
3 achieved.

4 Sec. 3. 18 V.S.A. § 5207 is amended to read:

5 § 5207. CERTIFICATE FURNISHED FAMILY; BURIAL-TRANSIT

6 PERMIT

7 Within 24 hours after death, the death certificate shall be made available
8 upon request to the family of the deceased, if any, or the undertaker or person
9 who has charge of the body. The certificate shall be filed with the person
10 issuing the burial-transit permit obtained by the person who has charge of the
11 body before ~~such dead body shall be buried, entombed, or removed~~ permanent
12 disposition or removal from the town. When the death certificate is so filed,
13 the officer or person shall immediately issue a burial-transit permit under legal
14 restrictions and safeguards.

15 Sec. 4. 18 V.S.A. § 5210 is amended to read:

16 § 5210. FORM OF BURIAL OR REMOVAL PERMIT

17 If it is desired to bury, entomb, or otherwise dispose of a dead body within
18 the limits of a town where the death occurred, the certificate of permission
19 shall state plainly the time, place, and manner of such burial, entombment, or
20 disposition. If it is desired to remove a dead body from the town where the
21 death occurred, the certificate of permission shall contain the essential facts

1 contained in the certificate of death on which it is issued, shall accompany the
2 body to its destination, and may be accepted as a permit for ~~burial or~~
3 ~~entombment~~ permanent disposition by a sexton or other person having the care
4 of a cemetery, ~~burial ground~~, tomb, or receiving vault.

5 Sec. 5. 18 V.S.A. § 5213 is amended to read:

6 § 5213. REMOVAL; FORM AND DISPOSITION OF PERMIT

7 Such permit shall state specifically ~~where such body is to be buried,~~
8 ~~cremated, or entombed~~ the location of the body's permanent disposition and
9 the time and manner of its removal. A town clerk issuing such a permit shall
10 make it in duplicate if the body is to be removed from the town, one copy of
11 which shall be delivered to the person having charge of the cemetery or tomb
12 from which the body is to be taken and the other shall be delivered to the
13 person having charge of the cemetery or tomb wherein it is desired to place the
14 body.

15 Sec. 6. 18 V.S.A. § 5224 is amended to read;

16 § 5224. DISPOSITION OF REMAINS; PERMITS

17 (a) Fetal remains shall be disposed of by burial, ~~or cremation,~~ or natural
18 organic reduction unless released to an educational institution for scientific
19 purposes or disposed of by the hospital or as directed by the attending
20 physician in a manner ~~which~~ that will not create a public health hazard.
21 Permission shall be obtained from one of the parents, if competent, for

1 disposition in all cases where a funeral director is not involved. One copy of
2 the fetal death report shall be printed in such manner that completion and
3 signing by the physician or medical examiner shall constitute permission to
4 make ~~final~~ permanent disposition of the fetal remains.

5 (b) When a funeral director is involved or when the fetal remains are to be
6 privately buried or disposed of by a ~~commercial~~ crematory establishment or
7 natural organic reduction facility, the funeral director or other person taking
8 charge of the remains shall obtain from the hospital or physician the
9 disposition permit portion of the report and shall deliver it to the sexton or
10 other person having care of the cemetery, tomb, vault, ~~or~~ crematory
11 establishment, or natural organic reduction facility before burial or other
12 disposition takes place. These permits shall be delivered each month to the
13 clerk of the town in which burial or disposition took place, in the same manner
14 as permits for burial of dead bodies; so also shall all other provisions of
15 sections 5209-5216 of this title be applicable to fetal remains as are applicable
16 to dead bodies.

17 * * *

18 Sec. 7. 18 V.S.A. chapter 121, subchapter 3 is amended to read:

19 Subchapter 3. Rights of Family Members, ~~and~~ Other Interested Persons,
20 Funeral Directors, and ~~Crematory~~ Operators of Crematory Establishments and
21 Natural Organic Reduction Facilities

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§ 5227. RIGHT TO DISPOSITION

(a) If there is no written directive of the decedent, in the following order of priority, one or more competent adults shall have the right to determine the disposition of the remains of a decedent, including the location, manner, and conditions of disposition and arrangements for funeral goods and services:

* * *

(9) the funeral director, ~~or~~ crematory establishment operator, or operator of a natural organic reduction facility with custody of the body, after attesting in writing that a good faith effort has been made to contact the individuals described in subdivisions (1) through (8) of this subsection; or

* * *

(c)(1) If the disposition of the remains of a decedent is determined under subdivision (a)(9) of this section and the funeral director, ~~or~~ crematory establishment operator, or operator of a natural organic reduction facility has cremated or processed the remains, as applicable, the funeral director, ~~or~~ crematory establishment operator, or operator of the natural organic reduction facility shall retain the remains for three years and, if no interested party as provided in subdivisions (a)(1) through (8) of this section claims the decedent's remains after three years, the funeral director, ~~or~~ crematory establishment operator, or operator of the natural organic reduction facility

1 shall arrange for the ~~final~~ permanent disposition of ~~the cremated~~ remains, as
2 applicable, consistent with any applicable law and standard funeral practices.

3 (2) Notwithstanding any provision of subdivision (1) of this subsection
4 to the contrary, a funeral director, ~~or~~ crematory establishment operator, or
5 operator of a natural organic reduction facility may determine that the
6 unclaimed ~~cremated~~ remains of a deceased veteran shall be interred at the
7 Vermont Veterans Memorial Cemetery pursuant to 20 V.S.A. § 1586 if:

8 (A) at least 180 days have passed since the funeral director, ~~or~~
9 crematory establishment operator, or operator of a natural organic reduction
10 facility cremated or processed the remains, as applicable;

11 (B) the funeral director, ~~or~~ crematory establishment operator, or
12 operator of a natural organic reduction facility either:

13 (i) has actual knowledge that there is no interested party as
14 provided in subdivisions (a)(1) through (8) of this section to claim the
15 decedent's remains; or

16 (ii) after making reasonable efforts, has been unable to locate and
17 contact any known interested party as provided in subdivisions (a)(1) through
18 (8) of this section; and

19 (C) the funeral director, ~~or~~ crematory establishment operator, or
20 operator of a natural organic reduction facility has confirmed with the Office

1 of Veterans Affairs that the deceased veteran is eligible to be interred at the
2 Vermont Veterans Memorial Cemetery.

3 (d)(1) If the disposition of the remains of a decedent is determined under
4 subdivision (a)(10) of this section, the Office of the Chief Medical Examiner
5 may contract with a funeral director, ~~or~~ crematory establishment operator, or
6 operator of a natural organic reduction facility to cremate or process the
7 remains of the decedent, as applicable.

8 (2)(A) If the cremation or natural organic reduction of the decedent is
9 arranged and paid for under 33 V.S.A. § 2301, the Department for Children
10 and Families shall pay the ~~cremation~~ expenses to the funeral home, up to the
11 maximum payment permitted by rule by the Department for Children and
12 Families.

13 (B) If the ~~cremation~~ permanent disposition of the decedent is not
14 arranged and paid for under 33 V.S.A. § 2301, the Department of Health shall
15 pay the ~~cremation~~ expenses to the funeral home, up to the maximum payment
16 permitted by rule by the Department for Children and Families.

17 (3) The ~~cremated~~ remains shall be returned to the Office of the Chief
18 Medical Examiner. The Office shall retain the remains for three years, and if
19 no interested party, as described in subdivisions (a)(1) through (8) of this
20 section, claims the decedent's remains after three years, the Office shall

1 arrange for the ~~final~~ permanent disposition of the ~~cremated~~ remains consistent
2 with any applicable law and standard funeral practices.

3 (4) Notwithstanding any provision of subdivision (3) of this subsection
4 to the contrary, the Office of the Chief Medical Examiner may determine that
5 the unclaimed ~~cremated~~ remains of a deceased veteran shall be interred at the
6 Vermont Veterans Memorial Cemetery pursuant to 20 V.S.A. § 1586 if:

7 (A) at least 180 days have passed since the remains were cremated or
8 processed;

9 (B) the Office of the Chief Medical Examiner either:

10 (i) has actual knowledge that there is no interested party as
11 provided in subdivisions (a)(1) through (8) of this section to claim the
12 decedent's remains; or

13 (ii) after making reasonable efforts, has been unable to locate and
14 contact any known interested party as provided in subdivisions (a)(1) through
15 (8) of this section; and

16 (C) the Office of the Chief Medical Examiner has confirmed with the
17 Office of Veterans Affairs that the deceased veteran is eligible to be interred at
18 the Vermont Veterans Memorial Cemetery.

19 § 5228. FORFEITURE

20 An individual recognized under section 5227 of this title to have a right of
21 disposition shall forfeit that right in the following circumstances:

1 disposition of remains and may file a civil action in Probate Division of the
2 Superior Court against a person, estate, banking institution, governmental
3 agency, or other entity ~~which~~ that may have liability for the ~~final~~ permanent
4 disposition, either:

5 (1) to seek a declaratory judgment that the director's or operator's
6 proposed action would be in compliance with the applicable provisions of law;
7 or

8 (2) to seek a judgment that the director or operator's action is in
9 compliance with the applicable provisions of law and to recover reasonable
10 costs and fees for the ~~final~~ permanent disposition when:

11 (A) the ~~funeral~~ director or ~~crematory~~ operator has actual knowledge
12 that there is no surviving family member, guardian, or individual appointed to
13 arrange for the disposition of decedent's remains pursuant to chapter 231 of
14 this title;

15 (B) the ~~funeral~~ director or ~~crematory~~ operator has made reasonable
16 efforts to locate and contact any known family member, guardian, or agent;
17 and

18 (C) the appropriate local or State authority, if any, fails to assume
19 responsibility for disposition of the remains within 36 hours of written notice,
20 which may be delivered by hand, U.S. mail, facsimile transmission, electronic
21 means, or telegraph.

1 § 5231. CIVIL ACTION

2 * * *

3 (c) Except as provided for under subdivision (b)(4) of this section, an
4 individual who has paid or agreed to pay for all or part of the funeral
5 arrangements or ~~final~~ permanent disposition does not have greater priority to
6 the right to disposition than as set forth in section 5227 of this title.

7 (d)(1) A funeral director, ~~or~~ crematory establishment operator, or operator
8 of a natural organic reduction facility may refuse to accept bodily remains, to
9 inter or otherwise dispose of bodily remains, or to complete the arrangements
10 for the ~~final~~ permanent disposition until such time as the court issues an order
11 or the parties to the action submit a final stipulation approved by the court
12 regarding the disposition of remains.

13 (2) If the ~~funeral~~ director or ~~crematory~~ operator retains the remains for
14 ~~final~~ permanent disposition while an action is pending, the ~~funeral~~ director or
15 ~~crematory~~ operator may refrigerate or shelter the remains while awaiting a
16 preliminary or final order of the court. The cost of refrigeration or sheltering
17 shall be the responsibility of the party or parties who contracted with the
18 ~~funeral~~ director or ~~crematory~~ operator, the person or entity who is otherwise
19 liable for the costs of ~~final~~ permanent disposition, or the estate as ordered by
20 the court, or any combination of these, and the court may include in the order a
21 decision concerning which of these shall be responsible for paying these costs.

1 (e) If a ~~funeral~~ director or ~~crematory~~ operator commences an action under
2 this section, the ~~funeral~~ director or ~~crematory~~ operator may ask the court to
3 include an order against the estate or the parties for reasonable legal fees and
4 costs. If the estate is insolvent and no other person should be responsible for
5 the filing fee, the court may waive the filing fee. The court, in its discretion,
6 may order a party or parties to pay the reasonable costs of ~~final~~ permanent
7 disposition as a condition of the appointment to make disposition decisions.
8 The court may order that a party, or parties, including the petitioner, pay
9 reasonable legal fees and costs associated with the action.

10 (f) Any appeal from the ~~probate court~~ Probate Division shall be on the
11 record to the Civil Division of the Superior Court. There shall be no appeal as
12 a matter of right to the Supreme Court.

13 * * *

14 § 5233. LIMITED LIABILITY

15 A funeral director, ~~or crematory~~ establishment operator, or operator of a
16 natural organic reduction facility shall not be subject to civil liability or subject
17 to disciplinary action for carrying out the disposition of the remains if he or she
18 relied in good faith on a funeral service contract or authorization or for
19 following the instructions of an individual ~~whom~~ who the ~~funeral~~ director or
20 ~~crematory~~ operator reasonably believes or believed holds the right of
21 disposition.

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* * * Cemeteries * * *

Sec. 8. 18 V.S.A. § 5302 is amended to read:

§ 5302. DEFINITIONS

As used in this chapter and unless otherwise required by the context:

(1) “Agencies” means town cemeteries, religious or ecclesiastical society cemeteries, cemetery associations, and any person, firm, corporation, or unincorporated association engaged in the business of a cemetery.

(2) “Alkaline hydrolysis” means the reduction of human remains to bone fragments and essential elements in a hydrolysis facility using heat, pressure, water, and base chemical agents.

(3) “Alkaline hydrolysis facility” means a structure, room, or other space in a building or structure containing one or more hydrolysis vessels, to be used for alkaline hydrolysis.

(4) “Cemetery” means any plot of ground used or intended to be used for the burial or permanent disposition ~~permanently~~ of the remains of the human dead in a grave, a mausoleum, a columbarium, a vault, a scattering garden, or other receptacle.

~~(3)~~(5) “Cemetery association” means any corporation now or hereafter organized ~~which~~ that is or shall be authorized by its articles to conduct the business of a cemetery.

1 ~~(4)~~(6) “Columbarium” means a structure or room or other space in a
2 building or structure of durable and lasting fireproof construction, containing
3 niches, used or intended to be used, to contain ~~cremated~~ the permanent
4 disposition of human remains.

5 ~~(5)~~(7) “Community mausoleum” means a structure or building of
6 durable and lasting construction used or intended to be used for the permanent
7 disposition of the remains of deceased persons in crypts or spaces, provided
8 such crypts or spaces are available to or may be obtained by individuals or the
9 public for a price in money or its equivalent.

10 ~~(6)~~(8) “Cremated remains” means remains of a deceased person after
11 incineration in a crematory establishment or decomposition in an alkaline
12 hydrolysis facility.

13 ~~(7)~~(9) “Cremation” means the reducing of the remains of deceased
14 persons, by the use of retorts or alkaline hydrolysis, to cremated remains and
15 the disposal thereof in a columbarium, niche, mausoleum, grave, scattering
16 garden, or in any other manner not contrary to law.

17 ~~(8)~~(10) “Crematory establishment” means a building or structure
18 containing one or more retorts, used or intended to be used, for the reducing of
19 the bodies of deceased persons to cremated remains.

20 ~~(9)~~(11) “Crypt” means the chamber in a mausoleum of sufficient size to
21 contain the remains of deceased persons.

1 ~~(10)~~(12) “Ecological land management practices” means utilization of
2 land stewardship decision-making processes that account for the best available
3 understanding of ecosystem functions and biological diversity.

4 ~~(11)~~(13) “Natural burial ground” means a cemetery maintained using
5 ecological land management practices and without the use of vaults for the
6 burial of unembalmed human remains or human remains embalmed using
7 nontoxic embalming fluids and that rest in either no burial container or in a
8 nontoxic, nonhazardous, plant-derived burial container or shroud.

9 (14) “Natural organic reduction” means the contained, accelerated
10 conversion of human remains to soil.

11 (15) “Natural organic reduction facility” means a structure, room, or
12 other space in a building or real property where natural organic reduction of a
13 human body occurs.

14 ~~(12)~~(16) “Niche” means a recess in a columbarium used, or intended to
15 be used for the permanent disposition of ~~the cremated~~ human remains of one or
16 more deceased persons.

17 (17) “Scattering garden” means a designated area in a cemetery for the
18 removal of human remains from their container for the purpose of scattering
19 the remains in a lawful manner.

20 ~~(13)~~(18) “Temporary receiving vault” means a vault or crypt in a
21 structure of durable and lasting construction, used or intended to be used, for

1 the temporary deposit of the remains of a deceased person for a period of time
2 not exceeding one year.

3 Sec. 9. 18 V.S.A. § 5306 is amended to read:

4 § 5306. PERPETUAL CARE FUNDS

5 An agency engaged in the cemetery business shall have the right to acquire
6 by gift, devise, or otherwise, land and property of every name and nature and
7 to set aside surplus funds, to be held in trust as a perpetual care fund, the
8 income thereof to be used according to the directions of the trust, where such
9 directions are given, and where no specific directions are given, or, where
10 given, and the purpose is incapable of performance, or there is a surplus of
11 income after the directions of the trust have been fully complied with and
12 performed, to use the same for the purpose of building, repairing, maintaining,
13 adorning, and beautifying buildings or parts thereof, fences, graves, vaults,
14 mausoleums, monuments, walks, cemetery lots, grounds, scattering gardens,
15 drives, or avenues, as the interests of the lot owners and cemetery shall appear.

16 The duty upon all agencies organized to establish a perpetual care fund
17 according to the terms hereinafter set forth is hereby imposed.

18 Sec. 10. 18 V.S.A. § 5313 is amended to read:

19 § 5313. RECORDS; BURIAL RECORDS OPEN TO PUBLIC

20 An agency engaged in the business of a cemetery, community mausoleum,
21 or columbarium shall provide and maintain a suitable place of deposit for the

1 records and files of such cemetery, community mausoleum, or columbarium,
2 of such character as will safely keep and preserve such records and files from
3 loss and destruction, and it shall make and file proper records in such place.
4 The record of ~~burials, interments, and cremations~~ the permanent disposition of
5 human remains shall at all reasonable times be open to the public.

6 Sec. 11. 18 V.S.A. § 5315 is amended to read:

7 § 5315. SALE OF PROPERTY FOR OTHER THAN BURIAL PURPOSES;
8 DISPOSITION OF PROCEEDS

9 Either before or after the recording of the plat, as hereinbefore provided,
10 whenever it is determined that such lands acquired for cemetery purposes,
11 except those acquired by condemnation proceedings, are unsuitable for ~~burial~~
12 ~~purposes~~ the permanent disposition of human remains, such lands may be sold
13 for purposes other than ~~interment~~ permanent disposition and conveyed in fee
14 simple in such manner and upon such terms as may be provided by the
15 agencies owning the same. The proceeds thereof shall be applied to the
16 purchase of other lands or to general cemetery purposes. When such sales are
17 made, the land so sold shall be returned by the agencies to the tax lists for
18 taxation. In the case of land acquired by condemnation proceedings, it shall be
19 disposed of under the law governing the disposal of land acquired by
20 condemnation proceedings.

1 Sec. 12. 18 V.S.A. § 5318 is amended to read:

2 § 5318. PUBLIC USE OF CEMETERY FOR OTHER PURPOSES

3 A public highway or railroad shall not be laid through ~~such burial ground~~ a
4 cemetery without the consent of the town, association, or the General
5 Assembly, and no portion of ~~such burial ground~~ a cemetery shall be taken for
6 public use without special authority from the General Assembly.

7 Sec. 13. 18 V.S.A. § 5319 is amended to read:

8 § 5319. DISPOSITION OF REMAINS OF DEAD

9 (a)(1) The permanent disposition of human remains shall be by:

10 (A) interment in the earth; ~~or~~

11 (B) deposit in a chamber, vault, or tomb formed wholly or partly
12 above the surface of the ground of a cemetery conducted and maintained
13 pursuant to the laws of the State; ~~or by;~~

14 (C) deposit in a crypt of a mausoleum; ~~or by;~~

15 (D) cremation; or

16 (E) natural organic reduction.

17 (2) However, this shall not be construed to prevent a private individual
18 from setting aside a portion of his or her premises owned in fee by him or her
19 and using the premises as a burial space for the members of his or her
20 immediate family, ~~so long as~~ provided his or her use for such purpose is not in

1 violation of the health laws and regulations of the State and the town in which
2 the land is situated.

3 * * *

4 (c) ~~No deposit of the remains of the human dead~~ With the exception of
5 human remains processed by natural organic reduction, the permanent
6 disposition of human remains shall not be made in a single chamber, vault, or
7 tomb wholly or partly above the surface of the ground unless the part thereof
8 below the natural surface of the ground be of a permanent character,
9 constructed of materials capable of withstanding extreme climatic conditions,
10 be waterproof and air tight, and can be sealed permanently so as to prevent all
11 escape of effluvia. That portion of the same above the natural surface of the
12 ground shall be constructed of natural stone of a standard not less than that
13 required by the U.S. government for monuments erected in national
14 cemeteries, of durability sufficient to withstand all conditions of weather, and
15 of a character to ensure its permanence.

16 (d) The remains of a human body after cremation or natural organic
17 reduction may be deposited in a scattering garden, niche of a columbarium, ~~in~~
18 ~~a~~ or a crypt of a mausoleum; ~~be buried;~~ or disposed of in any manner not
19 contrary to law.

1 Sec. 14. 18 V.S.A. § 5321 is amended to read:

2 § 5321. IMPROVEMENT OF PRIVATE ~~BURIAL GROUNDS~~

3 CEMETERIES; DUTIES OF OFFICERS

4 When the use and care of a private ~~burial-ground~~ cemetery has been
5 abandoned and such ground becomes unsightly from any cause, or when
6 headstones or monuments have been displaced, the selectboard or board of
7 cemetery commissioners having charge of the public cemeteries in the town
8 where ~~such burial-ground~~ the cemetery is located, on written request of three
9 legally qualified voters of such town, shall forthwith cause a notice to be
10 published once a week on the same day of the week for three successive weeks
11 in some newspaper circulating therein, calling upon any person interested in
12 such ~~burial-ground~~ cemetery to cause the same to be put in proper condition
13 within three months from the date of such notice. At the expiration of such
14 time, if such demand is not complied with, the selectboard or board shall
15 proceed then and thereafter as if such ground were a public ~~burial-place~~
16 cemetery.

17 Sec. 15. 18 V.S.A. § 5322(a) is amended to read:

18 (a) Any person wishing to have a temporary right of entry over private land
19 in order to enter a ~~graveyard~~ cemetery enclosure to which there is no public
20 right-of-way may apply in writing to the selectboard or cemetery
21 commissioners, as the case may be, state the reason for such request and the

1 period of time for which such right is to be exercised. The applicant shall also
2 notify in writing an owner or occupier of the land over which the right-of-way
3 is desired. If the selectboard or cemetery commissioners find that the request
4 is reasonable, they shall issue a permit for a temporary right of entry
5 designating the particular place where, and the manner in which, the land may
6 be crossed. The owner or occupier of the land may recommend a place of
7 crossing ~~which~~ that, if reasonable, shall be the place designated by the
8 selectboard or cemetery commissioners.

9 Sec. 16. 18 V.S.A. § 5361 is amended to read:

10 § 5361. APPROPRIATIONS AND REGULATIONS BY TOWNS

11 A town may vote sums of money necessary for purchasing, holding, and
12 keeping in repair suitable grounds and other conveniences for ~~burying~~
13 permanent disposition of the dead. The selectboard may make necessary
14 regulations concerning public ~~burial grounds~~ cemeteries and for fencing and
15 keeping the same in proper order.

16 Sec. 17. 18 V.S.A. § 5362 is amended to read:

17 § 5362. REPAIR; EXPENSE; NOTICE

18 (a) When lots or walks in a public ~~burial ground~~ cemetery become
19 unsightly with weeds or by an unchecked growth of grass or from any other
20 cause, or when headstones or monuments have become displaced or out of
21 repair, the selectboard or board of cemetery commissioners shall cause such

1 lots and walks to be cleared of weeds and grass, the headstones or monuments
2 to be replaced or repaired, or other disfigurements removed, and may draw
3 orders on the town treasurer for the expenses incurred.

4 * * *

5 Sec. 18. 18 V.S.A. § 5364 is amended to read:

6 § 5364. FENCES; PENALTY

7 When the selectboard or board of cemetery commissioners neglect to keep
8 in repair the fence around a public ~~burial-ground~~ cemetery, the town may be
9 prosecuted for such neglect and fined not more than \$400.00. The fine shall be
10 expended in repairing the fences around such burial grounds under the
11 direction of a commissioner appointed by the court.

12 Sec. 19. 18 V.S.A. § 5365 is amended to read:

13 § 5365. DAMAGES FOR WANT OF FENCE; LIABILITY

14 When a person or estate is damaged by cattle, horses, sheep, or swine
15 breaking into a public ~~burial-ground~~ cemetery and injuring a grave, headstone,
16 monument, shrubbery, or flowers, for want of a legal fence around ~~such burial~~
17 ~~ground~~ the cemetery, such person or estate may recover of the town double the
18 amount of damages, in a civil action.

1 Sec. 20. 18 V.S.A. § 5366 is amended to read:

2 § 5366. NOT LIABLE UNTIL NOTIFIED

3 A town shall not be charged for not keeping in repair the fence around a
4 ~~burial-ground~~ cemetery, or be liable for damage done, unless the selectboard,
5 or board of cemetery commissioners, as the case may be, had notice in writing
6 20 days previous that the fence was out of repair.

7 Sec. 21. 18 V.S.A. § 5367 is amended to read:

8 § 5367. DUTIES OF SELECTBOARD

9 When a town neglects to place one or more of its public ~~burial-grounds~~
10 cemeteries under the charge of a board of cemetery commissioners, the
11 selectboard shall have power to sell and convey lots in ~~such burial-grounds~~ the
12 cemeteries. They shall apply the proceeds of such sales and accept for the
13 town and use legacies, bequests, and gifts for improving and embellishing the
14 grounds.

15 Sec. 22. 18 V.S.A. § 5368 is amended to read:

16 § 5368. EXCEPTIONS

17 Sections 5361-5367 of this title shall not apply to a ~~burial-ground~~ cemetery
18 ~~which~~ that is subject to other control than that of the selectboard or the board
19 of cemetery commissioners.

20 Sec. 23. 18 V.S.A. § 5369 is amended to read:

21 § 5369. REMOVAL

1 When it is impracticable to preserve a ~~burial-ground~~ cemetery in proper
2 condition, and the removal of the remains of the dead therein is required, the
3 selectboard, in their discretion, may cause such remains to be removed and
4 interred in a more suitable public ~~burial-ground~~ cemetery.

5 Sec. 24. 18 V.S.A. § 5373 is amended to read:

6 § 5373. CEMETERY COMMISSIONERS

7 When a town votes to place its public ~~burial-grounds~~ cemeteries under the
8 charge of cemetery commissioners, it shall elect separately a board of three or
9 five cemetery commissioners, who shall have the care and management of
10 ~~such burial-ground~~ the cemeteries and exercise all the powers, rights, and
11 duties with respect to such care and management and all responsibility on the
12 part of the selectboard shall cease.

13 Sec. 25. 18 V.S.A. § 5375 is amended to read:

14 § 5375. LAYING OUT AND IMPROVING GROUNDS; BURIAL
15 WITHOUT CHARGE

16 The board of cemetery commissioners may set apart such portion of the
17 ~~burial-grounds~~ cemeteries placed under its charge as it deems proper, as a place
18 for the burial of persons without charge therefor, under such regulations as it
19 prescribes. It may lay out the remaining unoccupied portions in suitable lots,
20 with necessary paths, avenues, or other reserved places, and may plant and
21 embellish the same with trees, shrubs, and flowers.

1 Sec. 26. 18 V.S.A. § 5376 is amended to read:

2 § 5376. SALE OF LOTS; TAX EXEMPTION

3 The board of cemetery commissioners, by one of the commissioners
4 appointed by it for that purpose, in the name of the town, by deed, may grant
5 and convey lots in ~~such burial grounds~~ cemeteries to be used for the ~~burial~~
6 permanent disposition of the dead and on which tombs, cenotaphs, and other
7 monuments are to be erected. Such lots shall be exempt from taxation. The
8 deeds thereof shall be recorded in the office of the town clerk of the town
9 wherein such lots lie.

10 Sec. 27. 18 V.S.A. § 5377 is amended to read:

11 § 5377. PROCEEDS OF SALE; EXPENDITURE

12 The proceeds of such sale of lots shall be paid into the town treasury and
13 kept separate from other funds of the town and subject to the order of the
14 board. Such proceeds, with the income thereof, shall be devoted to
15 maintaining, improving, and embellishing ~~such burial grounds~~ cemeteries. If
16 the town so votes, the board of cemetery commissioners may sell lots upon
17 condition that the proceeds therefrom shall be paid into the town treasury in
18 trust and the income thereof be expended in caring for such lots and the
19 structures thereon. The board shall fix the prices for such lots and make
20 regulations in respect to the sale and care thereof.

1 Sec. 28. 18 V.S.A. § 5378 is amended to read:

2 § 5378. BYLAWS AND REGULATIONS

3 The board of cemetery commissioners may make necessary bylaws and
4 regulations in respect to ~~such burial grounds~~ cemeteries, and ~~interment~~
5 permanent disposition of the dead not inconsistent with law, and may alter the
6 same. Such bylaws and regulations shall be recorded in the office of the town
7 clerk. A bylaw or regulation shall not be adopted to restrain a person in the
8 free exercise of his or her religious sentiments as to the ~~burial~~ permanent
9 disposition of the dead.

10 Sec. 29. 18 V.S.A. § 5379 is amended to read:

11 § 5379. REPORT OF CEMETERY COMMISSIONERS

12 The board of cemetery commissioners shall submit annually a written report
13 to the town auditors as to the condition and needs of the ~~burial grounds~~
14 cemeteries under its charge and of its doings, including a detailed statement of
15 its receipts and expenditures and of the amount and disposition of the funds in
16 its hands or subject to its control.

17 Sec. 30. 18 V.S.A. § 5381 is amended to read:

18 § 5381. TRANSFER OF CARE FROM COMMISSIONERS TO
19 SELECTBOARD

20 By vote, a town may take its ~~burial grounds~~ cemeteries out of the charge of
21 the board of cemetery commissioners and place the same under the charge of

1 the selectboard. When a town so votes, the office of cemetery commissioners
2 shall terminate.

3 Sec. 31. 18 V.S.A. § 5382 is amended to read:

4 § 5382. TOWN TRUST FUNDS-ACCEPTANCE OF PROPERTY

5 A town may take and hold in trust grants, gifts, or bequests of property and
6 apply the same or the income thereof for the care, improvement, or
7 embellishment of its ~~burial grounds~~ cemeteries or a part thereof, or for the
8 erection, preservation, or removal of a monument, fence, or other structure in
9 or around the same according to the terms of the grant, gift, or bequest.

10 Sec. 32. 18 V.S.A. § 5383 is amended to read:

11 § 5383. ACCEPTANCE OF MONEY IN TRUST

12 A town may vote to receive and hold money in trust, the income of which is
13 to be used for the care and improvement of its ~~burial grounds~~ cemeteries, or of
14 private lots within ~~such burial grounds~~ the cemeteries or elsewhere.

15 Sec. 33. 18 V.S.A. § 5434 is amended to read:

16 § 5434. PENALTY FOR DOING BUSINESS AS A CEMETERY

17 ASSOCIATION WITHOUT AUTHORITY

18 A person, firm, corporation, or association, or a trust, trustee, or trustees of
19 any person, firm, corporation, or association, who, without authority of this
20 chapter so to do, shall exercise or attempt to exercise any powers, privileges, or
21 franchises ~~which~~ that are specified or may be granted under this chapter to

1 incorporated cemetery associations, or who shall by any device attempt to
2 evade the provisions of this chapter applicable to cemetery associations in
3 respect to the sale of ~~burial~~ lots or ~~burial~~ spaces for the permanent disposition
4 of human remains and the disposition of the proceeds thereof, shall be fined
5 not less than \$1,000.00 nor more than \$10,000.00, and may be enjoined from
6 further doing of such acts at the suit of any taxpayer of the State. However, the
7 provisions of this section shall not affect or impair the rights of a person, firm,
8 corporation, or association or a trust, trustee, or trustees of such person, firm,
9 corporation, or association under any existing contract or contracts between
10 such parties and incorporated cemetery associations, nor shall the performance
11 of the provisions of such contract or contracts subject parties thereto to the
12 penalties imposed by this section.

13 Sec. 34. 18 V.S.A. § 5435 is amended to read:

14 § 5435. SALES OF LOTS, CRYPTS, AND NICHES; HOW INCOME
15 APPLIED; RULES

16 (a) The income of a cemetery association, whether derived from the sale of
17 lots, ~~burial~~ spaces, crypts, or niches for the permanent disposition of human
18 remains, from donations, or otherwise, shall be exclusively applied to paying
19 for the land or other cemetery property, laying out, preserving, protecting, and
20 embellishing the cemetery and avenues leading thereto, the erection of
21 buildings necessary for cemetery purposes, the establishing of a fund to care

1 permanently for the cemetery, the repair and upkeep of scattering gardens,
2 mausoleums, vaults, columbariums, crypts, and niches therein, and to paying
3 the necessary expenses of the cemetery association. A debt shall not be
4 contracted in anticipation of future receipts, except for the original purchase of
5 the land, community mausoleum, or columbarium, laying out, enclosing, and
6 embellishing the grounds and avenues therein and to a sum not exceeding
7 \$50,000.00 in the whole, to be paid out of future income. ~~No part of the~~ The
8 proceeds from the sale of lots, ~~burial~~ spaces, crypts, or niches for the
9 permanent disposition of human remains, or other income of such association,
10 shall ~~ever~~ not be divided among its members. All its income shall be used
11 exclusively for the purposes of the association, as provided in this chapter, or
12 invested in a fund the income of which shall be so used. Such association may
13 adopt such reasonable rules and regulations as it deems expedient for disposing
14 of and conveying ~~burial~~ lots, spaces, crypts, and niches for the permanent
15 disposition of human remains.

16 * * *

17 Sec. 35. 18 V.S.A. § 5436 is amended to read:

18 § 5436. PERPETUAL CARE FUND

19 A cemetery association established prior to June 1, 1933 may create a
20 perpetual care fund out of surplus money on hand or ~~which~~ that has been given
21 to it by will, deed, or otherwise. A cemetery association established after such

1 date shall create such a perpetual care fund by applying thereto from the initial
2 proceeds received from the sale of lots or ~~burial~~ spaces for the permanent
3 disposition of human remains a sum ~~which~~ that shall be equivalent to and not
4 less than 20 percent of the sale price of each lot or ~~burial~~ space so sold, and
5 such association may at any time increase the same by the addition of surplus
6 money or property received by it by will, deed, or otherwise.

7 Sec. 36. 18 V.S.A. § 5439 is amended to read:

8 § 5439. DISSOLUTION OF CEMETERY ASSOCIATIONS

9 A cemetery association, which is not owned and operated by a church or by
10 a religious or ecclesiastical society, may be dissolved under the provisions of
11 11B V.S.A. chapter 14. Upon dissolution, all lands owned or held by it for
12 cemetery purposes and all perpetual care funds, trust funds, and all other
13 property held or owned by it, less dissolution expenses, may be transferred to
14 the town in which the lands are located, and thereafter these lands may become
15 public ~~burial grounds~~ cemeteries, and the town shall hold the perpetual care
16 funds and trust funds in trust for the care, improvement, and embellishment of
17 the lots therein, according to the terms upon which they were held by the
18 association.

19 Sec. 37. 18 V.S.A. § 5483 is amended to read:

20 § 5483. ACQUISITION OF LAND BY TOWN

1 When, in accordance with the provisions of this chapter, a person owning or
2 having an interest in lands taken for a ~~burial-ground~~ cemetery, or gravel or
3 earth for the same, is dissatisfied with such taking or with the damages
4 awarded to him or her by the selectboard in such proceedings, he or she may
5 petition the Superior Court of the county in which such lands lie in the same
6 manner as in case of an appeal as to the laying out of a highway by the
7 selectboard, and thereupon the same proceedings shall be had on such petition.

8 Sec. 40. 18 V.S.A. § 5488 is amended to read:

9 § 5488. ENLARGEMENT OF CEMETERIES BY ASSOCIATIONS-

10 PETITION TO SUPERIOR COURT TO ACQUIRE LAND

11 When an incorporated cemetery association wishes to enlarge the limits of
12 its ~~burial-ground~~ cemetery, and votes to purchase additional land for ~~burial~~
13 permanent disposition purposes and the owner of such land refuses to convey
14 the same to ~~such~~ the cemetery association for a reasonable compensation, the
15 trustees or president of such association, by a petition in writing, may apply to
16 the Superior Court in the county in which ~~such burial-ground~~ the cemetery is
17 located for the appointment of commissioners.

18 Sec. 41. 18 V.S.A. § 5491 is amended to read:

19 § 5491. SURVEY; DAMAGES

20 When the commissioners decide that public necessity and convenience
21 require the enlargement of ~~such burial-grounds~~ cemeteries, and the amount

1 needed, they shall cause the same to be surveyed, and shall ascertain what
2 damages will be sustained by the owner of such land.

3 * * * Funeral Services * * *

4 Sec. 42. 26 V.S.A. § 1211 is amended to read:

5 § 1211. DEFINITIONS

6 (a) As used in this chapter, unless a contrary meaning is required by the
7 context:

8 (1) “Crematory establishment” means a business registered with the
9 Office conducted at a specific street address or location devoted to the
10 disposition of dead human bodies by means of cremation, alkaline hydrolysis,
11 or any other type of human reduction acceptable to the Director as established
12 by the Director by rule.

13 (2) “Director” means the Director of the Office of Professional
14 Regulation.

15 (3) “Funeral director” means a licensed person who is the owner, co-
16 owner, employee, or manager of a licensed funeral establishment and who, for
17 compensation, engages in the practice of funeral service.

18 (4) “Funeral establishment” means a business registered with the Office
19 conducted at a specific street address or location devoted to the practice of
20 funeral service, and includes a limited services establishment.

21 (5) “Office” means the Office of Professional Regulation.

1 (6) “Practice of funeral service” means arranging, directing, or
2 providing for the care, preparation, or disposition of dead human bodies for a
3 fee or other compensation. This includes:

4 (A) meeting with the public to select a method of disposition or
5 funeral observance and merchandise;

6 (B) entering into contracts, either at-need or pre-need, for the
7 provision of dispositions, funeral observances, and merchandise;

8 (C) arranging, directing, or performing the removal or transportation
9 of a dead human body;

10 (D) securing or filing certificates, permits, forms, or other
11 documents;

12 (E) supervising or arranging a funeral, memorial, viewing, or
13 graveside observance; and

14 (F) holding oneself out to be a licensed funeral director by using the
15 words or terms “funeral director,” “mortician,” “undertaker,” or any other
16 words, terms, title, or picture that, when considered in context, would imply
17 that such person is engaged in the practice of funeral service or is a licensed
18 funeral director.

19 (7) “Removal” means the removal of dead human bodies from places of
20 death, hospitals, institutions, or other locations, for a fee or other
21 compensation.

1 Sec. 43. 26 V.S.A. § 1212 is amended to read:

2 § 1212. ADVISOR APPOINTEES; DIRECTOR DUTIES; RULES

3 (a)(1) The Secretary of State shall appoint four persons for five-year
4 staggered terms to serve at the Secretary's pleasure as advisors in matters
5 relating to funeral service. Three of the initial appointments shall be for four-,
6 three-, and two-year terms. Appointees shall include three licensed funeral
7 directors, one of whom is a licensed embalmer and one of whom has training
8 or experience in the operation of ~~crematoria~~ a crematory establishment or
9 natural organic reduction facility. One appointee shall be a public member.

10 (2) The Director shall seek the advice of the advisor appointees in
11 carrying out the provisions of this chapter.

12 (b) The Director shall:

13 * * *

14 (6) adopt rules regarding:

15 (A) minimum standards for crematory establishments and natural
16 organic reduction facilities, including standards for permits and
17 documentation, body handling, containers, infectious diseases, pacemakers,
18 body storage, sanitation, equipment and maintenance, dealing with the public
19 and other measures necessary to protect the public; and

20 (B) the transaction of business as the Director deems necessary.

21 (7) [Repealed.]

1 (8) [Repealed.]

2 Sec. 44. 26 V.S.A. § 1213 is amended to read:

3 § 1213. INSPECTION OF PREMISES

4 (a) The Director or his or her designee may, at any reasonable time, inspect
5 funeral ~~and~~ establishments, crematory establishments, and natural organic
6 reduction facilities.

7 (b) Each funeral ~~and~~ establishment, crematory establishment, and natural
8 organic reduction facility shall be inspected at least once every two years.

9 Copies of the inspector's report of inspections of establishments and facilities
10 shall be provided to the Director.

11 Sec. 45. 26 V.S.A. § 1251 is amended to read:

12 § 1251. LICENSE REQUIREMENTS

13 (a) A person, partnership, corporation, association, or other organization
14 shall not open or maintain a funeral establishment unless the establishment is
15 licensed by the Office to conduct the business and unless the owner, a co-
16 owner, or manager is a licensed funeral director.

17 (b) A person, partnership, corporation, association, or other organization
18 shall not open or maintain a crematory establishment or natural organic
19 reduction facility unless the establishment is licensed by the Office.

20 (c) A person shall not hold himself or herself out as performing the duties
21 of a funeral director unless licensed by the Office.

1 (d) Except as otherwise permitted by law, a person employed by a funeral
2 ~~or establishment,~~ crematory establishment, or natural organic reduction facility
3 shall not perform a removal unless registered with the Office.

4 Sec. 46. 26 V.S.A. § 1252 is amended to read:

5 § 1252. APPLICATION; QUALIFICATIONS

6 * * *

7 (d) Crematory establishment or natural organic reduction facility.

8 (1) A person, partnership, corporation, association, or other organization
9 desiring to operate a crematory establishment or natural organic reduction
10 facility shall apply, in writing, to the Director for a license. The applicant, if a
11 partnership, corporation, association, or other organization, must have a
12 designated manager or co-owner who is responsible for the operation of the
13 establishment and who is registered with the Office under subsection (e) of this
14 section.

15 (2) The application for a license shall be sworn to by the individual, or a
16 partner or a duly authorized officer of a corporation, shall be on the form
17 prescribed and furnished by the Director, and the applicant shall furnish
18 information, as required by rule. The application shall be accompanied by a
19 licensing fee. However, the applicant shall not be required to pay the fee under
20 this subsection if the applicant pays the fee under subsection (b) of this section.

1 (e) ~~Crematory personnel~~ Personnel of crematory establishment or natural
2 organic reduction facility.

3 (1) Any person who desires to engage in direct handling, processing,
4 identification, ~~or cremation,~~ or natural organic reduction of dead human
5 remains within a licensed crematory establishment or natural organic reduction
6 facility, as applicable, shall register with the Office and pay the fee established
7 in subsection 1256(d) of this chapter. The applicant shall have attained the age
8 of majority and be directly employed by a licensed crematory establishment or
9 natural organic reduction facility.

10 (2) The Director may prescribe, by rule, the forms for applicants, which
11 may include proof of completion of up to three hours of education and training
12 in programs approved by the Director.

13 (f) Removal personnel.

14 (1) Any person who desires to engage in removals shall register with the
15 Office and pay the fee established in subsection 1256(d) of this chapter. The
16 applicant shall have attained the age of majority and be directly employed by a
17 licensed funeral ~~or establishment,~~ crematory establishment, natural organic
18 reduction facility, or the University of Vermont for removals related to the
19 University's anatomical gift program.

1 (2) The Director may prescribe, by rule, the forms for applicants, which
2 may include proof of completion of up to three hours of education and training
3 in infectious diseases in programs approved by the Director.

4 (3) Registrants under this subsection are authorized to perform removals
5 only, as defined by this chapter. Unregistered personnel may accompany
6 registered personnel to assist in removals ~~so long as~~ provided they have been
7 instructed in handling and precautionary procedures prior to the call.

8 (g) Limited services establishment.

9 (1) The Director may adopt rules for the issuance of limited service
10 establishment licenses in accordance with this chapter. Limited service
11 establishment licensees are authorized to perform only disposition services
12 without arranging, directing, or performing embalming, public viewings,
13 gatherings, memorials, funerals, or related ceremonies. Disposition services
14 under this subsection include direct cremation, direct alkaline hydrolysis, direct
15 natural organic reduction, immediate burial, or direct green burial.

16 (2) Limited services shall be overseen by a funeral director licensed
17 under this chapter who is employed by the limited service establishment.

18 (3) Each limited service arrangement shall include a mandatory written
19 disclosure providing notice to the purchaser that limited services do not include
20 embalming, public viewings, gatherings, memorials, funerals, or related
21 ceremonies.

1	(C) Funeral establishment	\$ 800.00
2	(D) Crematory establishment	\$ 800.00
3	(E) Crematory <u>establishment</u> personnel	\$ 125.00
4	(F) Removal personnel	\$ 125.00
5	(G) Limited services establishment license	\$ 800.00
6	(H) <u>Natural organic reduction facility</u>	<u>\$ 800.00</u>
7	(I) <u>Natural organic reduction facility personnel</u>	<u>\$ 125.00</u>

8 * * *

9 Sec. 49. 26 V.S.A. § 1272 is amended to read:

10 § 1272. RULES; PREPAID FUNERAL FUNDS

11 * * *

12 (9) Establishment of a funeral services trust account.

13 (A) For purposes of funding the Funeral Services Trust Account, the
14 Office shall assess each funeral ~~or establishment,~~ crematory establishment, or
15 natural organic reduction facility a per funeral, burial, or disposition fee of
16 \$6.00.

17 (B) The Account shall be administered by the Secretary of State and
18 shall be used for the sole purpose of protecting prepaid funeral contract holders
19 in the event a funeral establishment defaults on its obligations under the
20 contract.

1 (C) The Account shall consist of all fees collected under this
2 subdivision (9) and any assessments authorized by the General Assembly. The
3 principal and interest remaining in the Account at the close of any fiscal year
4 shall not revert but shall remain in the Account for use in succeeding fiscal
5 years.

6 (D) Notwithstanding the provisions of this subdivision (9) to the
7 contrary, if the fund balance at the beginning of a fiscal year is at least
8 \$200,000.00, no fees shall be imposed during that fiscal year.

9 (E) Payments on consumer claims from the fund shall be made on
10 warrants by the Commissioner of Finance and Management, at the direction of
11 the Director.

12 (F) When an investigation reveals financial discrepancies within a
13 licensed establishment, the Director may order an audit to determine the
14 existence of possible claims on the Funeral Services Trust Account. In cases
15 where both a funeral and crematory establishment or funeral establishment and
16 natural organic reduction facility are involved in a disposition, the party
17 receiving the burial permit shall be responsible for the disposition fee.

