



State of Wisconsin
2021 - 2022 LEGISLATURE

LRB-2075/1
KP:amn

2021 SENATE BILL 228

March 24, 2021 - Introduced by Senators TESTIN, L. TAYLOR, CARPENTER, KOOYENGA and RINGHAND, cosponsored by Representatives NOVAK, SWEARINGEN, ARMSTRONG, BOWEN, CALLAHAN, KITCHENS, KRUG, MOSES, L. MYERS, J. RODRIGUEZ, ROZAR, SKOWRONSKI and STUBBS. Referred to Committee on Health.

AUTHORS SUBJECT TO CHANGE

1 **AN ACT** *to renumber and amend* 440.70 (6) and 440.78 (3) (c); *to amend* 440.70
2 (5) and 440.80 (2) (b); and *to create* 440.70 (6) (b), 440.70 (6m), 440.78 (3) (c)
3 2. and 440.78 (5m) of the statutes; **relating to:** the use of alkaline hydrolysis
4 to cremate human remains and providing an exemption from emergency rule
5 procedures.

Analysis by the Legislative Reference Bureau

Under this bill, a person may use the process of alkaline hydrolysis to cremate human remains only if the person is registered as a crematory authority by the Department of Safety and Professional Services. Alkaline hydrolysis is a process that uses water, alkaline chemicals, pressure, and heat to reduce human remains for final disposition. The bill places the use of alkaline hydrolysis for cremating human remains under generally the same requirements that apply under current law to conventional cremation.

For further information see the state fiscal estimate, which will be printed as an appendix to this bill.

The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:

6 **SECTION 1.** 440.70 (5) of the statutes is amended to read:

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1 440.70 (5) “Cremated remains” means human remains recovered from the
2 cremation of a human body or body part and the residue of a container or foreign
3 materials that were cremated with the body or body part, but excludes the sterile
4 liquid resulting from cremation by alkaline hydrolysis.

5 **SECTION 2.** 440.70 (6) of the statutes is renumbered 440.70 (6) (intro.) and
6 amended to read:

7 440.70 (6) (intro.) “Cremation” means any of the following:

8 (a) The process of using heat and flame to reduce human remains to bone
9 fragments ~~and includes,~~ including processing or pulverizing the bone fragments.

10 **SECTION 3.** 440.70 (6) (b) of the statutes is created to read:

11 440.70 (6) (b) Cremation by alkaline hydrolysis.

12 **SECTION 4.** 440.70 (6m) of the statutes is created to read:

13 440.70 (6m) “Cremation by alkaline hydrolysis” means the process of using
14 water, alkaline chemicals, pressure, and heat to reduce human remains to bone
15 fragments, including processing or pulverizing the bone fragments.

16 **SECTION 5.** 440.78 (3) (c) of the statutes is renumbered 440.78 (3) (c) 1. and
17 amended to read:

18 440.78 (3) (c) 1. ~~A~~ Except as provided under subd. 2., a container may be used
19 to hold human remains that are to be cremated only if the container is composed of
20 readily combustible materials that are resistant to leakage and spillage, has the
21 ability to be closed for complete covering of the human remains, is sufficiently rigid
22 to provide ease in handling, and is able to protect the health and safety of crematory
23 personnel.

24 **SECTION 6.** 440.78 (3) (c) 2. of the statutes is created to read:

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440.78 **(3)** (c) 2. A container may be used to hold human remains that are to be cremated by alkaline hydrolysis only if the container is biodegradable and opaque and satisfies subd. 1.

SECTION 7. 440.78 (5m) of the statutes is created to read:

440.78 (5m) DESTRUCTION OF PATHOGENS. If a crematory authority cremates human remains by alkaline hydrolysis, the crematory authority shall during the cremation process destroy the pathogens in the cremation chamber. The department shall promulgate rules to establish requirements for complying with this subsection.

SECTION 8. 440.80 (2) (b) of the statutes is amended to read:

440.80 **(2)** (b) Disposing of the remains in any other lawful manner that does not harm the environment, but only if the remains are reduced to a particle size of one-eighth inch or less.

SECTION 9. Nonstatutory provisions.

(1) **EMERGENCY RULES.** Using the procedure under s. 227.24, the department of safety and professional services may promulgate rules to implement this act under ss. 440.78 and 440.84 for the period before the effective date of the permanent rules promulgated under ss. 440.78 and 440.84 but not to exceed the period authorized under s. 227.24 (1) (c), subject to extension under s. 227.24 (2). Notwithstanding s. 227.24 (1) (a), (2) (b), and (3), the department of safety and professional services is not required to provide evidence that promulgating a rule under this subsection as an emergency rule is necessary for the preservation of the public peace, health, safety, or welfare and is not required to provide a finding of emergency for a rule promulgated under this subsection.

(END)