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**SENATE BILL 5387**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Senators Pedersen, Angel, Rolfes, and Fain

AN ACT Relating to cremation by biochemical hydrolysis; amending RCW 68.04.020, 68.04.080, 68.04.120, 68.04.170, 68.04.260, 68.04.270, 68.05.175, 68.05.195, 68.05.245, 68.05.390, 68.24.010, 68.24.150, 68.50.108, 68.50.110, 68.50.130, 68.50.140, 68.50.160, 68.50.185, 68.50.240, 68.50.270, 68.64.120, 70.95K.010, 70.95M.090, 73.08.070, 18.39.170, 18.39.217, and 18.39.410; and adding new sections to chapter 68.04 RCW.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 68.04.020 and 2005 c 365 s 27 are each amended to read as follows:

"Human remains" or "remains" means the body of a deceased person, includes the body in any stage of decomposition, and includes cremated or hydrolyzed human remains.

NEW SECTION. **Sec.**  A new section is added to chapter 68.04 RCW to read as follows:

"Alkaline hydrolysis" or "hydrolysis" means the reduction of human remains to bone fragments and essential elements in a licensed hydrolysis facility using heat, pressure, water, and alkaline substances.

NEW SECTION. **Sec.**  A new section is added to chapter 68.04 RCW to read as follows:

"Hydrolyzed human remains" means the end products of alkaline hydrolysis.

NEW SECTION. **Sec.**  A new section is added to chapter 68.04 RCW to read as follows:

"Hydrolysis facility" means a building or area of a building that houses one or more hydrolysis vessels, to be used for alkaline hydrolysis.

**Sec.**  RCW 68.04.080 and 2005 c 365 s 31 are each amended to read as follows:

"Columbarium" means a structure, room, or other space in a building or structure containing niches for permanent placement of cremated or hydrolyzed human remains in a place used, or intended to be used, and dedicated, for cemetery purposes.

**Sec.**  RCW 68.04.120 and 2005 c 365 s 34 are each amended to read as follows:

"Inurnment" means placing cremated or hydrolyzed human remains in a cemetery.

**Sec.**  RCW 68.04.170 and 2005 c 365 s 38 are each amended to read as follows:

"Niche" means a space in a columbarium for placement of cremated or hydrolyzed human remains.

**Sec.**  RCW 68.04.260 and 2005 c 365 s 43 are each amended to read as follows:

"Scattering garden" means a designated area in a cemetery for the scattering of cremated or hydrolyzed human remains.

**Sec.**  RCW 68.04.270 and 2005 c 365 s 44 are each amended to read as follows:

"Scattering" means the removal of cremated or hydrolyzed human remains from their container for the purpose of scattering the ((~~cremated~~)) human remains in any lawful manner.

**Sec.**  RCW 68.05.175 and 2009 c 102 s 11 are each amended to read as follows:

A permit or endorsement issued by the board or under chapter 18.39 RCW is required in order to operate a crematory or hydrolysis facility, or conduct a cremation or alkaline hydrolysis.

**Sec.**  RCW 68.05.195 and 2005 c 365 s 58 are each amended to read as follows:

Any person other than persons defined in RCW 68.50.160 who buries or scatters cremated or hydrolyzed remains by land, air, or sea or performs any other disposition of cremated or hydrolyzed human remains outside of a cemetery shall have a permit issued in accordance with RCW 68.05.100 and shall be subject to that section.

**Sec.**  RCW 68.05.245 and 2005 c 365 s 64 are each amended to read as follows:

(1) All crematory and hydrolysis facility permits or endorsements issued under this chapter shall be issued for the year and shall expire at midnight, the thirty-first day of January of each year, or at whatever time during any year that ownership or control of any cemetery authority which operates such ((~~crematory~~)) facility is transferred or sold.

(2) The director shall set and the department shall collect in advance the fees required for licensing.

**Sec.**  RCW 68.05.390 and 1987 c 331 s 32 are each amended to read as follows:

Conducting a cremation or alkaline hydrolysis without a permit or endorsement is a misdemeanor. Each such ((~~cremation is a~~)) violation constitutes a separate offense.

**Sec.**  RCW 68.24.010 and 2005 c 365 s 73 are each amended to read as follows:

Cemetery authorities may take by purchase, donation, or devise, property consisting of lands, mausoleums, crematories, hydrolysis facilities, and columbariums, or other property within which the placement of human remains may be authorized by law.

**Sec.**  RCW 68.24.150 and 2005 c 365 s 81 are each amended to read as follows:

Every person who pays, causes to be paid, or offers to pay to any other person, firm, or corporation, directly or indirectly, except as provided in RCW 68.24.140, any commission, bonus, or rebate, or other thing of value in consideration of recommending or causing the disposition of human remains in any crematory, hydrolysis facility, or cemetery, is guilty of a misdemeanor. Each violation ((~~shall~~)) constitutes a separate offense.

**Sec.**  RCW 68.50.108 and 1953 c 188 s 8 are each amended to read as follows:

No dead body upon which the coroner, or prosecuting attorney, if there be no coroner in the county, may perform an autopsy or postmortem, shall be embalmed, hydrolyzed, or cremated without the consent of the coroner having jurisdiction, and failure to obtain such consent ((~~shall be~~)) is a misdemeanor((~~: PROVIDED, That~~)). However, such autopsy or postmortem must be performed within five days, unless the coroner ((~~shall~~)) obtains an order from the superior court extending such time.

**Sec.**  RCW 68.50.110 and 2005 c 365 s 138 are each amended to read as follows:

Except in cases of dissection provided for in RCW 68.50.100, and where human remains shall rightfully be carried through or removed from the state for the purpose of burial elsewhere, human remains lying within this state, and the remains of any dissected body, after dissection, shall be decently buried, hydrolyzed, or cremated within a reasonable time after death.

**Sec.**  RCW 68.50.130 and 2005 c 365 s 139 are each amended to read as follows:

Every person who performs a disposition of any human remains, except as otherwise provided by law, in any place, except in a cemetery or a building dedicated exclusively for religious purposes, is guilty of a misdemeanor. Disposition of cremated or hydrolyzed human remains may also occur on private property, with the consent of the property owner; and on public or government lands or waters with the approval of the government agency that has either jurisdiction or control, or both, of the lands or waters.

**Sec.**  RCW 68.50.140 and 2005 c 365 s 140 are each amended to read as follows:

(1) Every person who ((~~shall~~)) removes human remains, or any part thereof, from a grave, vault, or other place where the same has been buried or deposited awaiting burial, alkaline hydrolysis, or cremation, without authority of law, with intent to sell the same, or for the purpose of securing a reward for its return, or for dissection, or from malice or wantonness, is guilty of a class C felony.

(2) Every person who ((~~shall~~)) purchases or receives, except for burial, alkaline hydrolysis, or cremation, human remains or any part thereof, knowing that the same has been removed contrary to the foregoing provisions, is guilty of a class C felony.

(3) Every person who ((~~shall~~)) opens a grave or other place of interment, temporary or otherwise, or a building where human remains are placed, with intent to sell or remove the casket, urn, or of any part thereof, or anything attached thereto, or any vestment, or other article interred, or intended to be interred with the human remains, is guilty of a class C felony.

(4) Every person who removes, disinters, or mutilates human remains from a place of interment, without authority of law, is guilty of a class C felony.

**Sec.**  RCW 68.50.160 and 2012 c 5 s 1 are each amended to read as follows:

(1) A person has the right to control the disposition of his or her own remains without the predeath or postdeath consent of another person. A valid written document expressing the decedent's wishes regarding the place or method of disposition of his or her remains, signed by the decedent in the presence of a witness, is sufficient legal authorization for the procedures to be accomplished.

(2) Prearrangements that are prepaid, or filed with a licensed funeral establishment or cemetery authority, under RCW 18.39.280 through 18.39.345 and chapter 68.46 RCW are not subject to cancellation or substantial revision by survivors. Absent actual knowledge of contrary legal authorization under this section, a licensed funeral establishment or cemetery authority shall not be held criminally nor civilly liable for acting upon such prearrangements.

(3) If the decedent has not made a prearrangement as set forth in subsection (2) of this section or the costs of executing the decedent's wishes regarding the disposition of the decedent's remains exceeds a reasonable amount or directions have not been given by the decedent, the right to control the disposition of the remains of a deceased person vests in, and the duty of disposition and the liability for the reasonable cost of preparation, care, and disposition of such remains devolves upon the following in the order named:

(a) The person designated by the decedent as authorized to direct disposition as listed on the decedent's United States department of defense record of emergency data, DD form 93, or its successor form, if the decedent died while serving in military service as described in 10 U.S.C. Sec. 1481(a) (1)-(8) in any branch of the United States armed forces, United States reserve forces, or national guard;

(b) The designated agent of the decedent as directed through a written document signed and dated by the decedent in the presence of a witness. The direction of the designated agent is sufficient to direct the type, place, and method of disposition;

(c) The surviving spouse or state registered domestic partner;

(d) The majority of the surviving adult children of the decedent;

(e) The surviving parents of the decedent;

(f) The majority of the surviving siblings of the decedent;

(g) A court-appointed guardian for the person at the time of the person's death.

(4) If any person to whom the right of control has vested pursuant to subsection (3) of this section has been arrested or charged with first or second degree murder or first degree manslaughter in connection with the decedent's death, the right of control is relinquished and passed on in accordance with subsection (3) of this section.

(5) If a cemetery authority as defined in RCW 68.04.190 or a funeral establishment licensed under chapter 18.39 RCW has made a good faith effort to locate the person cited in subsection (3)(a) through (g) of this section or the legal representative of the decedent's estate, the cemetery authority or funeral establishment ((~~shall have~~)) has the right to rely on an authority to bury, hydrolyze, or cremate the human remains, executed by the most responsible party available, and the cemetery authority or funeral establishment may not be held criminally or civilly liable for burying, hydrolyzing, or cremating the human remains. In the event any government agency or charitable organization provides the funds for the disposition of any human remains, the cemetery authority, hydrolysis facility, or funeral establishment may not be held criminally or civilly liable for cremating or hydrolyzing the human remains.

(6) The liability for the reasonable cost of preparation, care, and disposition devolves jointly and severally upon all kin of the decedent in the same degree of kindred, in the order listed in subsection (3) of this section, and upon the estate of the decedent.

**Sec.**  RCW 68.50.185 and 2005 c 365 s 143 are each amended to read as follows:

(1) A person authorized to dispose of human remains shall not cremate or hydrolyze or cause to be cremated or hydrolyzed, more than one human remains at a time unless written permission, after full and adequate disclosure regarding the manner of ((~~cremation~~)) disposition, has been received from the person or persons under RCW 68.50.160 having the authority to order cremation or hydrolysis. This restriction ((~~shall~~)) does not apply when equipment, techniques, or devices are employed that keep human remains separate and distinct before, during, and after the ((~~cremation~~)) disposition process.

(2) Violation of this section is a gross misdemeanor.

**Sec.**  RCW 68.50.240 and 2005 c 365 s 147 are each amended to read as follows:

The person in charge of any premises on which interments, alkaline hydrolyses, or cremations are made shall keep a record of all human remains interred, hydrolyzed, or cremated on the premises under his or her charge, in each case stating the name of each deceased person, date of ((~~cremation or interment~~)) disposition, and name and address of the funeral establishment.

**Sec.**  RCW 68.50.270 and 2005 c 365 s 148 are each amended to read as follows:

The person or persons determined under RCW 68.50.160 as having authority to order cremation ((~~shall be~~)) or alkaline hydrolysis is entitled to possession of the cremated or hydrolyzed human remains without further intervention by the state or its political subdivisions.

**Sec.**  RCW 68.64.120 and 2008 c 139 s 13 are each amended to read as follows:

(1) When a hospital refers an individual at or near death to a procurement organization, the organization shall make a reasonable search of the records of the department of licensing and any donor registry that it knows exists for the geographical area in which the individual resides to ascertain whether the individual has made an anatomical gift.

(2) A procurement organization must be allowed reasonable access to information in the records of the department of licensing to ascertain whether an individual at or near death is a donor.

(3) When a hospital refers an individual at or near death to a procurement organization, the organization may conduct any reasonable examination necessary to ensure the medical suitability of a part that is or could be the subject of an anatomical gift for transplantation, therapy, research, or education from a donor or a prospective donor. During the examination period, measures necessary to ensure the medical suitability of the part may not be withdrawn unless the hospital or procurement organization knows that the individual expressed a contrary intent.

(4) Unless prohibited by law other than this chapter, at any time after a donor's death, the person to which a part passes under RCW 68.64.100 may conduct any reasonable examination necessary to ensure the medical suitability of the body or part for its intended purpose.

(5) Unless prohibited by law other than this chapter, an examination under subsection (3) or (4) of this section may include an examination of all medical records of the donor or prospective donor.

(6) Upon the death of a minor who was a donor or had signed a refusal, unless a procurement organization knows the minor is emancipated, the procurement organization shall conduct a reasonable search for the parents of the minor and provide the parents with an opportunity to revoke or amend the anatomical gift or revoke the refusal.

(7) Upon referral by a hospital under subsection (1) of this section, a procurement organization shall make a reasonable search for any person listed in RCW 68.64.080 having priority to make an anatomical gift on behalf of a prospective donor. If a procurement organization receives information that an anatomical gift to any other person was made, amended, or revoked, it shall promptly advise the other person of all relevant information.

(8) Subject to RCW 68.64.100(9), 68.64.190, and 68.64.901, the rights of the person to which a part passes under RCW 68.64.100 are superior to the rights of all others with respect to the part. The person may accept or reject an anatomical gift in whole or in part. Subject to the terms of the document of gift and this chapter, a person that accepts an anatomical gift of an entire body may allow embalming, burial, alkaline hydrolysis, or cremation, and use of remains in a funeral service. If the gift is of a part, the person to which the part passes under RCW 68.64.100, upon the death of the donor and before embalming, burial, alkaline hydrolysis, or cremation, shall cause the part to be removed without unnecessary mutilation.

(9) Neither the physician who attends the decedent at death nor the physician who determines the time of the decedent's death may participate in the procedures for removing or transplanting a part from the decedent.

(10) A physician or technician may remove a donated part from the body of a donor that the physician or technician is qualified to remove.

**Sec.**  RCW 70.95K.010 and 1994 c 165 s 2 are each amended to read as follows:

((~~Unless the context clearly requires otherwise,~~ ))The definitions in this section apply throughout this chapter unless the context clearly requires otherwise.

(1) "Biomedical waste" means, and is limited to, the following types of waste:

(a) "Animal waste" is waste animal carcasses, body parts, and bedding of animals that are known to be infected with, or that have been inoculated with, human pathogenic microorganisms infectious to humans.

(b) "Biosafety level 4 disease waste" is waste contaminated with blood, excretions, exudates, or secretions from humans or animals who are isolated to protect others from highly communicable infectious diseases that are identified as pathogenic organisms assigned to biosafety level 4 by the centers for disease control, national institute of health, biosafety in microbiological and biomedical laboratories, current edition.

(c) "Cultures and stocks" are wastes infectious to humans and includes specimen cultures, cultures and stocks of etiologic agents, wastes from production of biologicals and serums, discarded live and attenuated vaccines, and laboratory waste that has come into contact with cultures and stocks of etiologic agents or blood specimens. Such waste includes but is not limited to culture dishes, blood specimen tubes, and devices used to transfer, inoculate, and mix cultures.

(d) "Human blood and blood products" is discarded waste human blood and blood components, and materials containing free-flowing blood and blood products.

(e) "Pathological waste" is waste human source biopsy materials, tissues, and anatomical parts that emanate from surgery, obstetrical procedures, and autopsy. "Pathological waste" does not include teeth, human corpses, remains, and anatomical parts that are intended for interment, alkaline hydrolysis, or cremation.

(f) "Sharps waste" is all hypodermic needles, syringes with needles attached, IV tubing with needles attached, scalpel blades, and lancets that have been removed from the original sterile package.

(2) "Local government" means city, town, or county.

(3) "Local health department" means the city, county, city-county, or district public health department.

(4) "Person" means an individual, firm, corporation, association, partnership, consortium, joint venture, commercial entity, state government agency, or local government.

(5) "Treatment" means incineration, sterilization, or other method, technique, or process that changes the character or composition of a biomedical waste so as to minimize the risk of transmitting an infectious disease.

(6) "Residential sharps waste" has the same meaning as "sharps waste" in subsection (1) of this section except that the sharps waste is generated and prepared for disposal at a residence, apartment, dwelling, or other noncommercial habitat.

(7) "Sharps waste container" means a leak-proof, rigid, puncture-resistant red container that is taped closed or tightly lidded to prevent the loss of the residential sharps waste.

(8) "Mail programs" means those programs that provide sharps users with a multiple barrier protection kit for the placement of a sharps container and subsequent mailing of the wastes to an approved disposal facility.

(9) "Pharmacy return programs" means those programs where sharps containers are returned by the user to designated return sites located at a pharmacy to be transported by a biomedical or solid waste collection company approved by the utilities and transportation commission.

(10) "Drop-off programs" means those program sites designated by the solid waste planning jurisdiction where sharps users may dispose of their sharps containers.

(11) "Source separation" has the same meaning as in RCW 70.95.030.

(12) "Unprotected sharps" means residential sharps waste that are not disposed of in a sharps waste container.

**Sec.**  RCW 70.95M.090 and 2003 c 260 s 10 are each amended to read as follows:

Nothing in this chapter applies to crematories as ((~~that term is~~)) defined in RCW 68.04.070 or hydrolysis facilities as defined in section 4 of this act.

**Sec.**  RCW 73.08.070 and 2005 c 250 s 5 are each amended to read as follows:

(1) The legislative authority for each county must designate a proper authority to be responsible, at the expense of the county, for the ((~~burial or cremation~~)) lawful disposition of the remains of any deceased indigent veteran or deceased family member of an indigent veteran who died without leaving means sufficient to defray funeral expenses. The costs of such a ((~~burial or cremation~~)) disposition may not exceed the limit established by the county legislative authority nor be less than three hundred dollars.

(2) If the deceased has relatives or friends who desire to conduct the ((~~burial or cremation~~)) disposition of such deceased ((~~person~~)) person's remains, then a sum not to exceed the limit established by the county legislative authority nor less than three hundred dollars shall be paid to the relatives or friends by the county auditor, or by the chief financial officer in a county operating under a charter. Payment shall be made to the relatives or friends upon presenting to the auditor or chief financial officer due proof of the death, ((~~burial or cremation~~)), disposition of the remains, and expenses incurred.

(3) Expenses incurred for the ((~~burial or cremation~~)) disposition of the remains of a deceased indigent veteran or the deceased family member of an indigent veteran as provided by this section shall be paid from the veterans' assistance fund authorized by RCW 73.08.080.

**Sec.**  RCW 18.39.170 and 2005 c 365 s 12 are each amended to read as follows:

There shall be appointed by the director an agent whose title shall be "inspector of funeral establishments, crematories, hydrolysis facilities, funeral directors, and embalmers of the state of Washington." ((~~No~~)) A person ((~~shall be~~)) is not eligible for such appointment unless he or she has been a licensed funeral director and embalmer in the state of Washington, with a minimum experience of not less than five consecutive years.

(1) The inspector shall:

(a) Serve at the pleasure of the director; and

(b) At all times be under the supervision of the director.

(2) The inspector is authorized to:

(a) Enter the office, premises, establishment, or place of business, where funeral directing, embalming, alkaline hydrolysis, or cremation is carried on for the purpose of inspecting the premises;

(b) Inspect the licenses and registrations of funeral directors, embalmers, funeral director interns, and embalmer interns;

(c) Serve and execute any papers or process issued by the director under authority of this chapter; and

(d) Perform any other duty or duties prescribed or ordered by the director.

**Sec.**  RCW 18.39.217 and 2009 c 102 s 4 are each amended to read as follows:

(1) A license or endorsement issued by the board or under chapter 68.05 RCW is required in order to operate a crematory, hydrolysis facility, or conduct a cremation or alkaline hydrolysis.

(2) Conducting a cremation or alkaline hydrolysis without a license or endorsement is a misdemeanor. Each such cremation or hydrolysis is a separate violation.

**Sec.**  RCW 18.39.410 and 2016 c 81 s 9 are each amended to read as follows:

In addition to the unprofessional conduct described in RCW 18.235.130, the board may take disciplinary action and may impose any of the sanctions specified in RCW 18.235.110 for the following conduct, acts, or conditions, except as provided in RCW 9.97.020:

(1) Solicitation of human remains by a licensee, registrant, endorsement, or permit holder, or agent, assistant, or employee of the licensee, registrant, endorsement, or permit holder whether the solicitation occurs after death or while death is impending. This chapter does not prohibit general advertising or the sale of prearrangement funeral service contracts;

(2) Solicitation may include employment of solicitors, payment of commission, bonus, rebate, or any form of gratuity or payment of a finders fee, referral fee, or other consideration given for the purpose of obtaining or providing the services for human remains or where death is impending;

(3) Acceptance by a licensee, registrant, endorsement, or permit holder or other employee of a funeral establishment of a commission, bonus, rebate, or gratuity in consideration of directing business to a cemetery, crematory, hydrolysis facility, mausoleum, columbarium, florist, or other person providing goods and services to the disposition of human remains;

(4) Using a casket or part of a casket that has previously been used as a receptacle for, or in connection with, the burial or other disposition of human remains without the written consent of the person lawfully entitled to control the disposition of remains of the deceased person in accordance with RCW 68.50.160. This subsection does not prohibit the use of rental caskets, such as caskets of which the outer shell portion is rented and the inner insert that contains the human remains is purchased and used for the disposition, that are disclosed as such in the statement of funeral goods and services;

(5) Violation of a state law, municipal law, or county ordinance or regulation affecting the handling, custody, care, transportation, or disposition of human remains, except as provided in RCW 9.97.020;

(6) Refusing to promptly surrender the custody of human remains upon the expressed order of the person lawfully entitled to its custody under RCW 68.50.160;

(7) Selling, or offering for sale, a share, certificate, or an interest in the business of a funeral establishment, or in a corporation, firm, or association owning or operating a funeral establishment that promises or purports to give to purchasers a right to the services of a licensee, registrant, endorsement, or permit holder at a charge or cost less than offered or given to the public;

(8) Violation of any state or federal statute or administrative ruling relating to funeral practice, except as provided in RCW 9.97.020;

(9) Knowingly concealing information concerning a violation of this title.

**--- END ---**