

H.25

An act relating to natural burial grounds

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

Sec. 1. 18 V.S.A. § 5302 is amended to read:

§ 5302. DEFINITIONS

~~For the purposes of~~ As used in this chapter and unless otherwise required by
the context:

* * *

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

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

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

~~(11)~~(13) “Temporary receiving vault” means a vault, or crypt, in a structure of durable and lasting construction, used or intended to be used for

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

Sec. 2. 18 V.S.A. § 5319 is amended to read:

§ 5319. DISPOSITION OF REMAINS OF DEAD

(a) The permanent disposition of the human remains ~~of the human dead~~ shall be by interment in the earth or deposit in a chamber, vault, or tomb formed wholly or partly above the surface of the ground of a cemetery conducted and maintained pursuant to the laws of the ~~state~~, State, or by deposit in a crypt of a mausoleum or by cremation. However, this shall not be construed to prevent a private individual from setting aside a portion of his or her premises owned in fee by him or her, and using the ~~same~~ premises as a burial space for the members of his or her immediate family, so long as his or her use for such purpose is not in violation of the health laws and regulations of the ~~state~~ State and the town in which ~~such~~ the land is situated.

(b)(1) ~~No interment~~ Interment of any human body in the earth shall not be made unless the distance from the bottom of the outside coffin or body shall be at least five feet below the natural surface of the ground, excepting only infants under four years of age, whose bodies shall be so interred that the bottom of the outside coffin enclosing them shall be at least three and one-half feet below the natural surface of the ground or if buried without a coffin shall be so

interred that the bottom of the body shall be at least five feet below the natural surface of the ground.

(2) The burial boundaries of a new or expanded cemetery shall be located:

(A) not less than 200 feet up gradient of a drilled bedrock well or a drilled well in a confined aquifer that is part of an exempt or permitted potable water supply or a transient noncommunity public water system source;

(B) not less than 500 feet up gradient from any other groundwater source that is part of an exempt or permitted potable water supply or a transient noncommunity public water system;

(C) not less than 150 feet cross or down gradient from any groundwater source that is part of an exempt or permitted potable water supply or transient noncommunity public water system;

(D) outside zone one or two of the source protection area for an existing or permitted public community water system;

(E) outside the source protection area for an existing or permitted nontransient, noncommunity public water system;

(F) outside a river corridor as defined in 10 V.S.A. § 1422 and delineated by the Agency of Natural Resources; and

(G) outside a flood hazard area as defined in 10 V.S.A. §752, and delineated by the Federal Emergency Management Agency, National Flood Insurance Program.

* * *

Sec. 3. 18 V.S.A. § 5323 is added to read:

§ 5323. NATURAL BURIAL GROUNDS; EXEMPTIONS

(a) A natural burial ground shall not be subject to the following provisions of this chapter:

(1) section 5310 of this title with regard to the method of platting so as to allow the use of any nonstandard method of locating human remains that enables demarcation in the town land record of the exact location and identity of each buried body, such as by mapping, surveying, or use of a global positioning system;

(2) section 5362 of this title;

(3) section 5364 of this title, to the extent that selectboard members or cemetery commissioners need not maintain or repair a fence around a public natural burial ground so long as the perimeter of the natural burial ground is marked in a less obtrusive manner, such as by survey markers; and

(4) section 5371, unless the regulations governing a particular natural burial ground require a marker on a person's grave, in which case the selectboard members of the town or the aldermen of a city where the person is

buried shall cause to be erected on the person's grave a marker in keeping with the regulations of that natural burial ground.

(b)(1) A person shall not construct improvements on property used as a natural burial ground, except for improvements that serve as a winter storage facility or that are either educational or devotional in nature and maintain the character of the land.

(2) A deed transferring rights in property used as a natural burial ground shall set forth the prohibition in subdivision (1) of this subsection.

Sec. 4. PUBLIC HEALTH; RULEMAKING

The Commissioner of Health shall adopt rules pursuant to 3 V.S.A. chapter 25 enabling the Commissioner to govern the disposition of human remains in a natural burial ground when the deceased person had a disease or condition considered a Public Health Emergency of International Concern or when a burial poses a potential "public health hazard" as defined by 18 V.S.A. § 2.

Sec. 5. RETROACTIVE CREATION OF NATURAL BURIAL GROUND; PROHIBITED

Notwithstanding any other provision of law, a natural burial ground as defined in 18 V.S.A. § 5302 shall not be established prior to the passage of this act.

AS PASSED BY HOUSE AND SENATE
2015

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Sec. 6. EFFECTIVE DATE

This act shall take effect on July 1, 2015.