

NOTE: This bill has been prepared for the signatures of the appropriate legislative officers and the Governor. To determine whether the Governor has signed the bill or taken other action on it, please consult the legislative status sheet, the legislative history, or the Session Laws.

An Act

HOUSE BILL 24-1335

BY REPRESENTATIVE(S) Soper and Titone, Clifford, Frizell, Lieder, Lindstedt, Ricks, Bacon, Boesenecker, Brown, Duran, Froelich, Herod, Jodeh, Joseph, Kipp, Lindsay, Marvin, Rutinel, Sirota, Snyder, Story, Vigil, Weissman, Willford, Young, McCluskie, Amabile, Hamrick;
also SENATOR(S) Roberts and Gardner, Bridges, Buckner, Cutter, Fields, Ginal, Gonzales, Hinrichsen, Jaquez Lewis, Liston, Lundeen, Michaelson Jenet, Priola, Sullivan.

CONCERNING THE CONTINUATION OF THE REGULATION OF PERSONS RELATED TO THE FINAL DISPOSITION OF DECEASED HUMAN BODIES, AND, IN CONNECTION THEREWITH, IMPLEMENTING THE RECOMMENDATIONS IN THE 2023 SUNSET REPORT BY THE DEPARTMENT OF REGULATORY AGENCIES AND MAKING AN APPROPRIATION.

Be it enacted by the General Assembly of the State of Colorado:

SECTION 1. In Colorado Revised Statutes, **amend** 12-135-406 as follows:

12-135-406. Repeal - subject to review. Sections 12-135-110, 12-135-111, 12-135-303, and 12-135-304 and this part 4 are repealed, effective ~~July 1, 2024~~ **SEPTEMBER 1, 2029**. Before the repeal, the regulation

Capital letters or bold & italic numbers indicate new material added to existing law; dashes through words or numbers indicate deletions from existing law and such material is not part of the act.

of persons registered to practice cremation and mortuary science is scheduled for review in accordance with section 24-34-104.

SECTION 2. In Colorado Revised Statutes, 24-34-104, **amend** (25)(a)(XIII); and **add** (30)(a)(X) as follows:

24-34-104. General assembly review of regulatory agencies and functions for repeal, continuation, or reestablishment - legislative declaration - repeal. (25) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2024:

(XIII) ~~The regulation of persons registered to practice mortuary science by sections 12-135-110 and 12-135-111 and cremation by sections 12-135-303 and 12-135-304, and the administration thereof in accordance with part 4 of article 135 of title 12, and~~ The regulation of nontransplant tissue banks by section 12-140-103;

(30) (a) The following agencies, functions, or both, are scheduled for repeal on September 1, 2029:

(X) THE FUNCTIONS OF THE DIRECTOR OF THE DIVISION OF PROFESSIONS AND OCCUPATIONS RELATED TO THE REGISTRATION OF FUNERAL ESTABLISHMENTS SPECIFIED IN SECTION 12-135-110 AND CREMATORIES SPECIFIED IN SECTION 12-135-303 AND TO THE TITLE PROTECTIONS SPECIFIED IN SECTIONS 12-135-111 AND 12-135-304.

SECTION 3. In Colorado Revised Statutes, 12-135-401, **amend** (1) introductory portion, (1)(b), (1)(c), (3)(a), and (6); and **add** (1)(d) and (7) as follows:

12-135-401. Powers and duties of the director - rules. (1) The director may deny, suspend, refuse to renew, or revoke a registration pursuant to section 12-20-404 (1)(d); issue and send by ~~certified~~ ELECTRONIC mail THAT IS ACTUALLY RECEIVED, a letter of admonition to a funeral establishment or crematory under the circumstances specified in and in accordance with section 12-20-404 (4); issue a confidential letter of concern to a funeral establishment or crematory under the circumstance specified in section 12-20-404 (5); place a registered funeral establishment or crematory on probation pursuant to section 12-20-404 (1)(b); or limit the scope of practice of the registration of a funeral establishment or crematory

under this article 135 that has:

(b) Had a registration issued by Colorado, or an equivalent license, registration, or certification issued by another state, to practice mortuary science or to embalm or cremate human remains revoked; ~~or~~

(c) Violated this article 135, an applicable provision of article 20 of this title 12, or any rule of the director adopted under this article 135; OR

(d) FAILED TO RESPOND TO A COMPLAINT WITHIN THE LENGTH OF TIME SPECIFIED IN THE NOTICE TO THE REGISTRANT OF THE COMPLAINT.

(3) (a) (I) The director may investigate the activities of a funeral establishment or crematory upon the director's own initiative or upon receipt of a complaint or a suspected or alleged violation of this article 135.

(II) THE DIRECTOR SHALL PERFORM ROUTINE INSPECTIONS OF ALL FUNERAL ESTABLISHMENTS AND CREMATORIES ON A PERIODIC BASIS AS DETERMINED BY RULE. The director may contract with a private party to perform ~~an inspection~~ THESE INSPECTIONS.

(III) To perform an inspection, the director or a private party with whom the director contracts to perform the inspection may enter the premises of a funeral establishment or crematory with full right of ingress and egress: ~~during business hours.~~

(A) WHILE THE FUNERAL ESTABLISHMENT OR CREMATORY IS REGISTERED;

(B) FOR A PERIOD OF TIME, AS DETERMINED BY RULE, AFTER A FUNERAL ESTABLISHMENT'S OR CREMATORY'S REGISTRATION HAS EXPIRED, HAS BEEN REVOKED, OR HAS BEEN SURRENDERED; AND

(C) UPON APPLICATION FOR A NEW REGISTRATION.

(IV) THE DIRECTOR SHALL PROMULGATE RULES DETERMINING THE PERIOD OF TIME AFTER A REGISTRATION IS NO LONGER VALID DURING WHICH TIME THE DIRECTOR OR A PRIVATE PARTY WITH WHOM THE DIRECTOR CONTRACTS MAY PERFORM INSPECTIONS TO ENSURE THAT THE FUNERAL ESTABLISHMENT OR CREMATORY CONTINUES TO COMPLY WITH THIS ARTICLE

135 AND WINDS DOWN THE BUSINESS WITHOUT CREATING AN UNDUE RISK TO THE PUBLIC HEALTH.

(6) (a) The director may promulgate reasonable rules necessary to implement this section, ~~sections 12-135-110, 12-135-111, 12-135-303, and 12-135-304, and this part 4~~ ARTICLE 135.

~~(b) Before promulgating rules, the director shall seek input and advice from a person, or any state professional organization of persons, offering services that require registration pursuant to this article 135~~ IN PROMULGATING RULES UNDER THIS ARTICLE 135, THE DIRECTOR IS SUBJECT TO ARTICLE 4 OF TITLE 24.

~~(c) Before promulgating rules, the director may seek input and advice from a consumer representative who advocates for consumers affected by this article 135.~~

(7) THE DIRECTOR MAY IMPOSE DISCIPLINE, PURSUANT TO THIS SECTION, ON AN APPLICANT FOR REGISTRATION UNDER THIS ARTICLE 135, A FUNERAL ESTABLISHMENT REGISTERED PURSUANT TO SECTION 12-135-110, OR A CREMATORY REGISTERED PURSUANT TO SECTION 12-135-303 FOR THE ACTS OF A PERSON THAT:

(a) IS ACTING ON BEHALF OF THE APPLICANT, REGISTERED FUNERAL ESTABLISHMENT, OR REGISTERED CREMATORY; AND

(b) IS AN OFFICER, A DIRECTOR, A MEMBER, A PARTNER, OR AN OWNER OF THE APPLICANT, REGISTERED FUNERAL ESTABLISHMENT, OR REGISTERED CREMATORY IF:

(I) THE PERSON HOLDS AT LEAST A TEN PERCENT INTEREST IN THE APPLICANT, REGISTERED FUNERAL ESTABLISHMENT, OR REGISTERED CREMATORY THAT IS PUBLICLY TRADED; OR

(II) THE PERSON HOLDS AN INTEREST IN THE APPLICANT, REGISTERED FUNERAL ESTABLISHMENT, OR REGISTERED CREMATORY THAT IS NOT PUBLICLY TRADED.

SECTION 4. In Colorado Revised Statutes, 12-20-204, **amend** (2)(a); and **repeal** (2)(c) as follows:

12-20-204. Regulator's rule-making authority. (2) Subsection (1) of this section does not apply to the following:

(a) Article 110 of this title 12 concerning combative sports; AND

(c) ~~Article 135 of this title 12 concerning mortuaries and crematories; and~~

SECTION 5. In Colorado Revised Statutes, **amend** 12-135-403 as follows:

12-135-403. Cease-and-desist orders - orders and stipulations - suspension - procedure. (1) The director may issue cease-and-desist orders under the circumstances and in accordance with the procedures specified in section 12-20-405.

(2) THE DIRECTOR MAY SUSPEND A REGISTRATION UPON THE FAILURE OF THE REGISTRANT TO COMPLY WITH ANY CONDITION OF A STIPULATION OR ORDER IMPOSED BY THE DIRECTOR UNTIL THE REGISTRANT COMPLIES WITH THE CONDITION.

SECTION 6. In Colorado Revised Statutes, 12-135-111, **amend** (2) introductory portion and (3) introductory portion as follows:

12-135-111. Title protection. (2) A person shall not advertise, represent, or hold ~~oneself~~ THEMSELF out as or use the title of a "funeral director" unless the ~~applicant~~ PERSON:

(3) A person shall not advertise, represent, or hold ~~oneself~~ THEMSELF out as or use the title of an "embalmer" unless the ~~applicant~~ PERSON:

SECTION 7. In Colorado Revised Statutes, **amend** 12-135-304 as follows:

12-135-304. Title protection. A person shall not advertise, represent, or hold ~~oneself~~ THEMSELF out as or use the title of a "cremationist" unless the ~~applicant~~ PERSON has at least five hundred hours practicing or interning as a cremationist and has cremated at least fifty human remains.

SECTION 8. In Colorado Revised Statutes, 12-135-111, **amend** (1) introductory portion as follows:

12-135-111. Title protection. (1) A person shall not advertise, represent, or hold ~~himself or herself~~ THEMSELF out as or use the title of a "mortuary science practitioner" unless the person:

SECTION 9. In Colorado Revised Statutes, 12-135-104, **add** (1.5) as follows:

12-135-104. Funeral establishment - subcontractor. (1.5) A FUNERAL ESTABLISHMENT SHALL HAVE A WRITTEN CONTRACT WITH ALL SUBCONTRACTORS OR AGENTS. THE CONTRACT MUST BE SIGNED BY THE ESTABLISHMENT'S DESIGNEE AND MADE, UPON REQUEST, AVAILABLE TO A CONSUMER THAT IS AFFECTED BY THE CONTRACT OR THE DIRECTOR.

SECTION 10. In Colorado Revised Statutes, 12-135-105, **amend** (1)(d) and (1)(o) as follows:

12-135-105. Unlawful acts. (1) It is unlawful:

(d) For a person in the business of paying for or providing death benefits, funerals, funeral ceremonies, final dispositions, or preneed contracts to pay or provide benefits in a manner that ~~deprives~~ LIMITS THE FUNERAL ESTABLISHMENTS WHERE the next of kin or legal representative ~~of the right to~~ CAN use those payments or benefits; ~~at a funeral establishment of his or her choice;~~

(o) To fail to include in a contract for funeral services the following statement: ~~"INQUIRIES REGARDING YOUR FUNERAL AGREEMENT MAY BE DIRECTED TO~~ "FUNERAL HOMES AND CREMATORY ESTABLISHMENTS ARE REGULATED BY THE DEPARTMENT OF REGULATORY AGENCIES. TO FILE A COMPLAINT, CONTACT", along with the current address or telephone number of the department;

SECTION 11. In Colorado Revised Statutes, 12-135-109, **amend** (4)(b); and **add** (6) as follows:

12-135-109. Exceptions - safe harbor. (4) If a funeral director, mortuary science practitioner, or embalmer has acted in good faith, the

funeral director, mortuary science practitioner, or embalmer may rely on a signed statement from a person with the right of final disposition under section 15-19-106 that:

(b) The person has made a reasonable effort under section 15-19-106 to contact each person with the right of final disposition and to learn ~~his or her~~ EACH PERSON'S wishes; and

(6) THIS PART 1 DOES NOT APPLY TO OR INTERFERE WITH CRYONIC PRESERVATION OF HUMAN REMAINS IF DONE PURSUANT TO RULE.

SECTION 12. In Colorado Revised Statutes, 12-135-112, **repeal** (1)(a); and **add** (4) as follows:

12-135-112. Standards of practice - embalming - transporting.

(1) A funeral establishment that performs embalming shall:

(a) ~~Maintain a sanitary preparation room with sanitary flooring, drainage, and ventilation;~~

(4) A FUNERAL ESTABLISHMENT SHALL MAINTAIN A SANITARY PREPARATION ROOM WITH SANITARY FLOORING, DRAINAGE, VENTILATION, AND REFRIGERATION AND OTHER EQUIPMENT NECESSARY TO MAINTAIN SANITARY CONDITIONS.

SECTION 13. In Colorado Revised Statutes, 12-135-113, **add** (4) as follows:

12-135-113. Custody and responsibility - rules. (4) A FUNERAL ESTABLISHMENT SHALL NOT TAKE CUSTODY OF MORE HUMAN REMAINS THAN THE FUNERAL ESTABLISHMENT HAS CAPACITY TO REFRIGERATE UNLESS THE FUNERAL ESTABLISHMENT MAINTAINS CUSTODY OF THE HUMAN REMAINS FOR LESS THAN TWENTY-FOUR HOURS.

SECTION 14. In Colorado Revised Statutes, **add** 12-135-114 as follows:

12-135-114. Insurance requirements. (1) A FUNERAL ESTABLISHMENT SHALL OBTAIN AND MAINTAIN A PROFESSIONAL LIABILITY INSURANCE POLICY WITH LIABILITY LIMITS OF AT LEAST ONE MILLION

DOLLARS. THE FUNERAL ESTABLISHMENT MUST SUBMIT THE CERTIFICATE OF PROFESSIONAL LIABILITY INSURANCE TO THE DIRECTOR:

(a) WITHIN THIRTY DAYS AFTER THE INITIAL REGISTRATION OF THE FUNERAL ESTABLISHMENT BY THE BOARD; AND

(b) UPON REQUEST BY THE DIRECTOR.

(2) A FUNERAL ESTABLISHMENT SHALL NOTIFY THE BOARD IN WRITING WITHIN THIRTY DAYS AFTER DOING ANY OF THE FOLLOWING FOR THE PROFESSIONAL LIABILITY INSURANCE POLICY REQUIRED BY SUBSECTION (1) OF THIS SECTION:

(a) CHANGING THE POLICY OR THE INSURER THAT ISSUES THE POLICY;
OR

(b) CANCELING OR SUSPENDING THE POLICY.

SECTION 15. In Colorado Revised Statutes, 12-135-302, **amend** (1)(b) as follows:

12-135-302. Exceptions - safe harbor. (1) If a crematory has acted in good faith, the crematory may rely on a signed statement from a person with the right of final disposition under section 15-19-106 that:

(b) The person has made a reasonable effort under section 15-19-106 to contact each person with the right of final disposition and to learn ~~his or her~~ EACH PERSON'S wishes; and

SECTION 16. In Colorado Revised Statutes, 12-135-307, **amend** (5)(b) as follows:

12-135-307. Standards of practice - cremating. (5) (b) ~~After cremation is complete, all of the cremains and reasonable recoverable residue shall be removed from the cremation chamber and processed as necessary. Anything other than the cremains shall be disposed of unless the next of kin authorizes otherwise~~ UPON THE COMPLETION OF EACH CREMATION, THE CREMATIONIST SHALL REMOVE ALL OF THE RECOVERABLE RESIDUE, INSOFAR AS IS PRACTICABLE, OF THE CREMATION PROCESS FROM THE CREMATORY AND PLACE THE RESIDUE IN A SEPARATE CONTAINER SO

THAT THE RESIDUE DOES NOT COMMINGLE WITH THE CREMATED REMAINS OF OTHER INDIVIDUALS. THE CREMATIONIST SHALL DISPOSE OF ACCUMULATED RESIDUE IN ACCORDANCE WITH THE REGULATIONS OF A CEMETERY WITH A DEFINED AREA TO SCATTER REMAINS AND RESIDUE AND ANY APPLICABLE LOCAL ORDINANCES. FOR THE PURPOSES OF THIS SUBSECTION (5)(b), RESIDUE DOES NOT INCLUDE HUMAN ASHES, BONE FRAGMENTS, PROSTHESES, AND DISINTEGRATED MATERIAL IN THE CHAMBER THAT IS IMBEDDED IN CRACKS AND UNEVEN SPACES OF A CREMATION CHAMBER AND THAT CANNOT BE REMOVED THROUGH REASONABLE MANUAL CONTACT WITH SWEEPING OR SCRAPING EQUIPMENT.

SECTION 17. Appropriation. (1) For the 2024-25 state fiscal year, \$339,196 is appropriated to the department of regulatory agencies. This appropriation is from the division of professions and occupations cash fund created in section 12-20-105 (3), C.R.S. To implement this act, the department may use this appropriation as follows:

(a) \$206,081 for use by the division of professions and occupations for personal services, which amount is based on an assumption that the division will require an additional 2.8 FTE;

(b) \$65,546 for use by the division of professions and occupations for operating expenses;

(c) \$22,762 for vehicle lease payments; and

(d) \$44,807 for the purchase of legal services.

(2) For the 2024-25 state fiscal year, \$44,807 is appropriated to the department of law. This appropriation is from reappropriated funds received from the department of regulatory agencies under subsection (1)(d) of this section and is based on an assumption that the department of law will require an additional 0.2 FTE. To implement this act, the department of law may use this appropriation to provide legal services for the department of regulatory agencies.

SECTION 18. Safety clause. The general assembly finds, determines, and declares that this act is necessary for the immediate preservation of the public peace, health, or safety or for appropriations for

the support and maintenance of the departments of the state and state institutions.

Julie McCluskie
SPEAKER OF THE HOUSE
OF REPRESENTATIVES

Steve Fenberg
PRESIDENT OF
THE SENATE

Robin Jones
CHIEF CLERK OF THE HOUSE
OF REPRESENTATIVES

Cindi L. Markwell
SECRETARY OF
THE SENATE

APPROVED _____
(Date and Time)

Jared S. Polis
GOVERNOR OF THE STATE OF COLORADO