

Second Regular Session
Seventy-fourth General Assembly
STATE OF COLORADO

PREAMENDED

*This Unofficial Version Includes Committee
Amendments Not Yet Adopted on Second Reading*

LLS NO. 24-0576.01 Josh Schultz x5486

HOUSE BILL 24-1254

HOUSE SPONSORSHIP

Hamrick and Bradley, Lieder, Young

SENATE SPONSORSHIP

Smallwood,

House Committees

Health & Human Services
Appropriations

Senate Committees

A BILL FOR AN ACT

101 **CONCERNING THE CONTINUATION OF THE REGULATION OF**
102 **NONTRANSPLANT TISSUE BANKS, AND, IN CONNECTION**
103 **THEREWITH, IMPLEMENTING RECOMMENDATIONS CONTAINED**
104 **IN THE 2023 SUNSET REPORT BY THE DEPARTMENT OF**
105 **REGULATORY AGENCIES.**

Bill Summary

(Note: This summary applies to this bill as introduced and does not reflect any amendments that may be subsequently adopted. If this bill passes third reading in the house of introduction, a bill summary that applies to the reengrossed version of this bill will be available at <http://leg.colorado.gov/>.)

Sunset Process - House Health and Human Services Committee. The bill implements recommendations of the department of

Shading denotes HOUSE amendment. Double underlining denotes SENATE amendment.
Capital letters or bold & italic numbers indicate new material to be added to existing law.
Dashes through the words or numbers indicate deletions from existing law.

regulatory agencies' (department) sunset review and report on the regulation of nontransplant tissue banks by:

- Continuing the regulation of nontransplant tissue banks for 9 years, to 2033; and
- Granting the director of the division of professions and occupations in the department the authority to create rules necessary for the regulation of nontransplant tissue banks.

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

2 **SECTION 1.** In Colorado Revised Statutes, 24-34-104, **amend**
3 (25)(a)(XIII); and **add** (34)(a)(IX) as follows:

4 **24-34-104. General assembly review of regulatory agencies**
5 **and functions for repeal, continuation, or reestablishment - legislative**
6 **declaration - repeal.** (25) (a) The following agencies, functions, or both,
7 are scheduled for repeal on September 1, 2024:

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

13 (34) (a) The following agencies, functions, or both, are scheduled
14 for repeal on September 1, 2033:

15 (IX) THE REGULATION OF NONTRANSPLANT TISSUE BANKS BY THE
16 DIRECTOR OF THE DIVISION OF PROFESSIONS AND OCCUPATIONS IN THE
17 DEPARTMENT OF REGULATORY AGENCIES PURSUANT TO SECTION
18 12-140-103.

19 **SECTION 2.** In Colorado Revised Statutes, 12-140-103, **amend**
20 (4); and **add** (1)(c) as follows:

21 **12-140-103. Registration required - subject to review - repeal.**
22 (1) (c) IF A NONTRANSPLANT TISSUE BANK WITHDRAWS OR DOES NOT

1 RENEW ITS REGISTRATION, FOR A PERIOD OF THREE YEARS AFTER THE END
2 OF REGISTRATION, THE NONTRANSPLANT TISSUE BANK SHALL CONTINUE
3 TO MAINTAIN ON FILE WITH THE DIRECTOR CURRENT INFORMATION
4 REGARDING ITEMS DESCRIBED IN SUBSECTIONS (1)(a)(I) AND (1)(a)(II) OF
5 THIS SECTION.

6 (4) This section is repealed, effective ~~September 1, 2024~~
7 SEPTEMBER 1, 2033. Before the repeal, this section is scheduled for
8 review in accordance with section 24-34-104.

9 **SECTION 3.** In Colorado Revised Statutes, 12-140-105, **amend**
10 (1)(b) and (1)(c); and **add** (1)(d), (4), and (5) as follows:

11 **12-140-105. Standards of practice.** (1) A nontransplant tissue
12 bank shall:

13 (b) Be equipped with instruments and supplies necessary to
14 protect the health and safety of the public and employees of the
15 nontransplant tissue bank; ~~and~~

16 (c) Affix identification to all human remains delivered to the
17 nontransplant tissue bank and provide tracking paperwork to match the
18 identification; ~~AND~~

19 (d) MAINTAIN A PROPER CHAIN OF CUSTODY OF HUMAN REMAINS
20 WHILE THE HUMAN REMAINS ARE IN THE POSSESSION OF THE
21 NONTRANSPLANT TISSUE BANK.

22 (4) (a) A NONTRANSPLANT TISSUE BANK MAY COMPENSATE A
23 FUNERAL ESTABLISHMENT FOR TRANSPORTATION OF HUMAN REMAINS AND
24 OTHER REASONABLE EXPENSES.

25 (b) A NONTRANSPLANT TISSUE BANK SHALL NOT COMPENSATE A
26 FUNERAL ESTABLISHMENT FOR HUMAN REMAINS.

27 (5) THE DONOR OR THE PERSON AUTHORIZED BY LAW TO CONSENT

1 TO DONATION MAY LIMIT THE SALE OF THE DONATED HUMAN REMAINS BY
2 A NONTRANSPLANT TISSUE BANK, INCLUDING PROHIBITING SALE TO
3 FOREIGN BUYERS, TO NON-MEDICAL RESEARCH USES, OR FOR MILITARY
4 USES.

5 **SECTION 4.** In Colorado Revised Statutes, 12-140-106, **amend**
6 (1)(b); and **add** (1)(d), (1)(e), (1)(f), and (1)(g) as follows:

7 **12-140-106. Disclosure.** (1) A nontransplant tissue bank shall
8 disclose, in clear and unambiguous terms, the following information to
9 the donor or to the person authorized by law to consent to donation:

10 (b) That the donated human remains may be returned, in whole or
11 in part, to the nontransplant tissue bank; ~~and~~

12 (d) THAT THE DONOR OR THE PERSON AUTHORIZED BY LAW TO
13 CONSENT TO DONATION IS DONATING HUMAN REMAINS TO A
14 NONTRANSPLANT TISSUE BANK;

15 (e) THAT THE NONTRANSPLANT TISSUE BANK MAY SELL ALL OR
16 ANY PORTION OF THE HUMAN REMAINS;

17 (f) THAT THE NONTRANSPLANT TISSUE BANK MAY COMPENSATE A
18 FUNERAL ESTABLISHMENT FOR TRANSPORTATION OF HUMAN REMAINS AND
19 OTHER REASONABLE EXPENSES, BUT THE NONTRANSPLANT TISSUE BANK
20 SHALL NOT COMPENSATE A FUNERAL ESTABLISHMENT FOR HUMAN
21 REMAINS; AND

22 (g) THAT THE DONOR OR THE PERSON AUTHORIZED BY LAW TO
23 CONSENT TO DONATION MAY LIMIT THE SALE OF THE DONATED HUMAN
24 REMAINS BY A NONTRANSPLANT TISSUE BANK, INCLUDING PROHIBITING
25 SALE TO FOREIGN BUYERS, TO NON-MEDICAL RESEARCH USES, OR FOR
26 MILITARY USES.

27 **SECTION 5.** In Colorado Revised Statutes, **add** 12-140-109 as

1 follows:

2 **12-140-109. Rules.** (1) THE DIRECTOR MAY PROMULGATE RULES
3 AS NECESSARY TO IMPLEMENT THIS ARTICLE 140. BEFORE PROMULGATING
4 RULES, THE DIRECTOR SHALL SEEK INPUT AND ADVICE FROM:

5 (a) PERSONS, INCLUDING ANY PROFESSIONAL ORGANIZATION OF
6 INDIVIDUALS, OFFERING SERVICES THAT REQUIRE REGISTRATION
7 PURSUANT TO THIS ARTICLE 140; AND

8 (b) CONSUMERS OR CONSUMER REPRESENTATIVES WHO ADVOCATE
9 FOR CONSUMERS AFFECTED BY THIS ARTICLE 140.

10 **SECTION 6.** In Colorado Revised Statutes, 12-20-204, **amend**
11 (2)(a) and (2)(c); and **repeal** (2)(d) as follows:

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

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

15 (c) Article 135 of this title 12 concerning mortuaries and
16 crematories. ~~and~~

17 (d) ~~Article 140 of this title 12 concerning nontransplant tissue~~
18 ~~banks.~~

19 **SECTION 7.** In Colorado Revised Statutes, 12-135-105, **amend**
20 (1)(p) as follows:

21 **12-135-105. Unlawful acts.** (1) It is unlawful:

22 (p) For a person owning an indirect OR A DIRECT interest with
23 ~~more than ten-percent ownership in a funeral establishment or for a~~
24 ~~person owning a direct interest in a funeral establishment to own an~~
25 ~~indirect interest with more than ten-percent ownership in a nontransplant~~
26 ~~tissue bank, as defined in section 12-140-102 (3), or to own a direct~~
27 ~~interest in a nontransplant tissue bank;".~~

1 **SECTION 8.** In Colorado Revised Statutes, 12-140-102, **amend**
2 (3) as follows:

3 **12-140-102. Definitions.** As used in this article 140, unless the
4 context otherwise requires:

5 (3) (a) "Nontransplant tissue bank" means a person that, for any
6 purpose other than transplantation into a living human being, ~~recovers,~~
7 ~~transports, distributes, screens, stores, and arranges~~ AND WITH THE INTENT
8 OF FURTHER DISTRIBUTION, PROVIDES OR ENGAGES IN AT LEAST ONE OF
9 THE FOLLOWING for the storage and distribution of human remains:

- 10 (I) RECOVERY;
- 11 (II) COLLECTION;
- 12 (III) ACQUISITION;
- 13 (IV) DISTRIBUTION;
- 14 (V) SCREENING;
- 15 (VI) STORAGE; OR
- 16 (VII) ARRANGEMENT.

17 (b) "Nontransplant tissue bank" does not include:

18 (I) An eye bank, an organ procurement organization, or a tissue
19 bank, as those terms are defined in section 15-19-202 (10), (16), and (31),
20 respectively;

21 (II) A funeral establishment registered in accordance with section
22 12-135-110; or

23 (III) A crematory registered in accordance with section
24 12-135-303; OR

25 (IV) AN APPROVED MEDICAL COLLEGE, AS DEFINED IN SECTION
26 12-240-104 (3), OR SIMILAR EDUCATIONAL INSTITUTION THAT ACCEPTS
27 HUMAN REMAINS PRIMARILY FOR ITS OWN EDUCATIONAL OR RESEARCH

1 PURPOSES.

2 SECTION 9. In Colorado Revised Statutes, 12-140-104, add (4)
3 as follows:

4 12-140-104. Records and receipts. (4) A NONTRANSPLANT
5 TISSUE BANK AND ITS DESIGNEE EACH SHALL MAINTAIN THE RECORDS AND
6 RECEIPTS REQUIRED BY THIS SECTION. IF A NONTRANSPLANT TISSUE BANK
7 WITHDRAWS OR DOES NOT RENEW ITS REGISTRATION, THE
8 NONTRANSPLANT TISSUE BANK AND ITS DESIGNEE SHALL MAINTAIN THE
9 RECORDS AND RECEIPTS REQUIRED BY THIS SECTION FOR A PERIOD OF
10 THREE YEARS AFTER THE END OF REGISTRATION.

11 SECTION 10. In Colorado Revised Statutes, amend 12-140-108
12 as follows:

13 12-140-108. Violations and penalties - private civil right of
14 action. (1) A person who violates this article 140 commits a class 1
15 misdemeanor.

16 (2) (a) A PERSON WHO SUFFERS DAMAGES AS A RESULT OF A
17 VIOLATION OF SECTION 12-140-105 OR 12-140-106 HAS A PRIVATE CIVIL
18 RIGHT OF ACTION TO RECOVER DAMAGES AGAINST ANY PERSON THAT
19 VIOLATES SECTION 12-140-105 OR 12-140-106.

20 (b) IF A COURT DETERMINES THAT A PERSON SUBJECT TO THIS
21 ARTICLE 140 VIOLATED SECTION 12-140-105 OR 12-140-106, IN ADDITION
22 TO ALL OTHER REMEDIES, THE COURT SHALL AWARD A STATUTORY
23 PENALTY OF THE GREATER OF THREE THOUSAND FIVE HUNDRED DOLLARS
24 OR ALL COMPENSATION RECEIVED BY THE NONTRANSPLANT TISSUE BANK
25 FOR THE DISTRIBUTION OF THE DECEDENT'S HUMAN REMAINS.

26 (c) IF A COURT DETERMINES THAT A VIOLATION OF SECTION
27 12-140-105 OR 12-140-106 WAS WILLFUL OR WANTON, THE AMOUNT OF

1 THE STATUTORY PENALTY IS TRIPLED.

2 (d) THE COURT SHALL AWARD A SUCCESSFUL PLAINTIFF UNDER
3 THIS SUBSECTION (2) REASONABLE COSTS AND ATTORNEY FEES.

4 (e) THERE MUST BE ONLY ONE CIVIL ACTION PER DECEDENT WHOSE
5 HUMAN REMAINS WERE DONATED. IF MULTIPLE PLAINTIFFS ARE JOINED IN
6 THE ACTION, THE COURT MAY ALLOCATE THE PENALTY AMONG THE
7 PLAINTIFFS AS IT DEEMS JUST.

8 **SECTION 11. Act subject to petition - effective date.** This act
9 takes effect at 12:01 a.m. on the day following the expiration of the
10 ninety-day period after final adjournment of the general assembly; except
11 that, if a referendum petition is filed pursuant to section 1 (3) of article V
12 of the state constitution against this act or an item, section, or part of this
13 act within such period, then the act, item, section, or part will not take
14 effect unless approved by the people at the general election to be held in
15 November 2024 and, in such case, will take effect on the date of the
16 official declaration of the vote thereon by the governor.