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HOUSE BILL 24-1254

BY REPRESENTATIVE(S) Hamrick and Bradley, Lieder, Young, Boesenecker, Brown, Duran, English, Jodeh, Lindsay, Lindstedt, Ortiz, Soper;
also SENATOR(S) Smallwood, Gardner, Ginal, Kirkmeyer, Lundeen, Priola, Roberts.

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

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

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

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.

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;~~

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

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

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

12-140-103. Registration required - subject to review - repeal.

(1) (c) IF A NONTRANSPLANT TISSUE BANK WITHDRAWS OR DOES NOT RENEW ITS REGISTRATION, FOR A PERIOD OF THREE YEARS AFTER THE END OF REGISTRATION, THE NONTRANSPLANT TISSUE BANK SHALL CONTINUE TO MAINTAIN ON FILE WITH THE DIRECTOR CURRENT INFORMATION REGARDING ITEMS DESCRIBED IN SUBSECTIONS (1)(a)(I) AND (1)(a)(II) OF THIS SECTION.

(4) This section is repealed, effective ~~September 1, 2024~~ SEPTEMBER 1, 2033.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

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

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

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

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

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

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

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

(5) THE DONOR OR THE PERSON AUTHORIZED BY LAW TO CONSENT TO DONATION MAY LIMIT THE SALE OF THE DONATED HUMAN REMAINS BY A NONTRANSPLANT TISSUE BANK, INCLUDING PROHIBITING SALE TO FOREIGN BUYERS, FOR NONMEDICAL RESEARCH USES, OR FOR MILITARY USES.

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

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

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

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

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

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

(g) THAT THE DONOR OR THE PERSON AUTHORIZED BY LAW TO

CONSENT TO DONATION MAY LIMIT THE SALE OF THE DONATED HUMAN REMAINS BY A NONTRANSPLANT TISSUE BANK, INCLUDING PROHIBITING SALE TO FOREIGN BUYERS, FOR NONMEDICAL RESEARCH USES, OR FOR MILITARY USES.

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

12-140-109. Rules. (1) THE DIRECTOR MAY PROMULGATE RULES AS NECESSARY TO IMPLEMENT THIS ARTICLE 140. IN FULFILLING THE REQUIREMENTS OF SECTION 24-4-103 (2), THE DIRECTOR SHALL SEEK INPUT AND ADVICE FROM:

(a) PERSONS, INCLUDING ANY PROFESSIONAL ORGANIZATION OF INDIVIDUALS THAT HAS SIGNED UP WITH THE DEPARTMENT FOR RULE-MAKING NOTIFICATION, OFFERING SERVICES THAT REQUIRE REGISTRATION PURSUANT TO THIS ARTICLE 140; AND

(b) CONSUMERS OR CONSUMER REPRESENTATIVES WHO ADVOCATE FOR CONSUMERS AFFECTED BY THIS ARTICLE 140 AND WHO HAVE SIGNED UP WITH THE DEPARTMENT FOR RULE-MAKING NOTIFICATION.

SECTION 6. In Colorado Revised Statutes, 12-20-204, **amend** (2)(a) and (2)(c); and **repeal** (2)(d) 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~~

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

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

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

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

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

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

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

- (I) RECOVERY;
- (II) COLLECTION;
- (III) ACQUISITION;
- (IV) DISTRIBUTION;
- (V) SCREENING;
- (VI) STORAGE; OR
- (VII) ARRANGEMENT.

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

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

(II) A funeral establishment registered in accordance with section

12-135-110; or

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

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

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

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

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

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

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

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

(c) IF A COURT DETERMINES THAT A VIOLATION OF SECTION 12-140-105 OR 12-140-106 WAS WILLFUL OR WANTON, THE AMOUNT OF THE STATUTORY PENALTY IS TRIPLED.

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

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

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

November 2024 and, in such case, will take effect on the date of the official declaration of the vote thereon by the governor.

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