

Second Regular Session  
Seventy-first General Assembly  
STATE OF COLORADO

**REREVISED**

*This Version Includes All Amendments  
Adopted in the Second House*

LLS NO. 18-1019.04 Jery Payne x2157

**SENATE BILL 18-234**

**SENATE SPONSORSHIP**

**Coram and Crowder,**

**HOUSE SPONSORSHIP**

**Kraft-Tharp and Catlin,**

**Senate Committees**

Judiciary

**House Committees**

Health, Insurance, & Environment

Finance

Appropriations

**A BILL FOR AN ACT**

101 **CONCERNING MEASURES TO REDUCE THE SALE WITHOUT CONSENT OF**  
102 **THE REMAINS OF A HUMAN WHO WAS BORN ALIVE, AND, IN**  
103 **CONNECTION THEREWITH, REGISTERING NONTRANSPLANT TISSUE**  
104 **BANKS AND PROHIBITING CERTAIN OWNERS OF NONTRANSPLANT TISSUE**  
105 **BANKS FROM OWNING CERTAIN OTHER BUSINESSES THAT PROVIDE FOR**  
106 **THE FINAL DISPOSITION OF HUMAN REMAINS, AND MAKING AN**  
107 **APPROPRIATION.**

**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>.)*

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

HOUSE  
3rd Reading Unamended  
May 7, 2018

HOUSE  
Amended 2nd Reading  
May 4, 2018

SENATE  
3rd Reading Unamended  
April 24, 2018

SENATE  
Amended 2nd Reading  
April 23, 2018

The bill makes it unlawful under the "Mortuary Science Code" for a person to own more than a 10% indirect interest in a funeral establishment or crematory while simultaneously owning interest in a nontransplant tissue bank. The bill prohibits an entity from profiting from the transfer, sale, storage, or leasing of human remains.

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

2 **SECTION 1. In Colorado Revised Statutes, 12-54-104, add**  
3 **(1)(p) as follows:**

4 **12-54-104. Unlawful acts. (1) It is unlawful:**

5 **(p) FOR A PERSON OWNING AN INDIRECT INTEREST WITH MORE**  
6 **THAN TEN-PERCENT OWNERSHIP IN A FUNERAL ESTABLISHMENT OR FOR A**  
7 **PERSON OWNING A DIRECT INTEREST IN A FUNERAL ESTABLISHMENT TO**  
8 **OWN AN INDIRECT INTEREST WITH MORE THAN TEN-PERCENT OWNERSHIP**  
9 **IN A NONTRANSPLANT TISSUE BANK, AS DEFINED IN SECTION 12-54.5-101**  
10 **(5), OR TO OWN A DIRECT INTEREST IN A NONTRANSPLANT TISSUE BANK.**

11 **SECTION 2. In Colorado Revised Statutes, 12-54-301, add (3)**  
12 **as follows:**

13 **12-54-301. Unlawful acts. (3) IT IS UNLAWFUL FOR A PERSON**  
14 **OWNING AN INDIRECT INTEREST WITH MORE THAN TEN-PERCENT**  
15 **OWNERSHIP IN A CREMATORY OR FOR A PERSON OWNING A DIRECT**  
16 **INTEREST IN A CREMATORY TO OWN AN INDIRECT INTEREST WITH MORE**  
17 **THAN TEN-PERCENT OWNERSHIP IN A NONTRANSPLANT TISSUE BANK, AS**  
18 **DEFINED IN SECTION 12-54.5-101 (5), OR TO OWN A DIRECT INTEREST IN A**  
19 **NONTRANSPLANT TISSUE BANK.**

20 **SECTION 3. In Colorado Revised Statutes, add article 54.5 to**  
21 **title 12 as follows:**

22 **ARTICLE 54.5**

1 Nontransplant Tissue Banks

2 12-54.5-101. Definitions. AS USED IN THIS ARTICLE 54.5, UNLESS  
3 THE CONTEXT OTHERWISE REQUIRES:

4 [REDACTED] [REDACTED]  
5 (1) "DESIGNEE" MEANS AN INDIVIDUAL DESIGNATED BY A  
6 NONTRANSPLANT TISSUE BANK REGISTERED IN ACCORDANCE WITH  
7 SECTION 12-54.5-102.

8 (2) "DIRECTOR" MEANS THE DIRECTOR OF THE DIVISION OR THE  
9 DIRECTOR'S DESIGNEE.

10 (3) "DIVISION" MEANS THE DIVISION OF PROFESSIONS AND  
11 OCCUPATIONS CREATED IN SECTION 24-34-102.

12 (4) "HUMAN REMAINS" MEANS ALL OR ANY PORTION OF THE  
13 PHYSICAL REMAINS OF A DEAD HUMAN WHO WAS BORN ALIVE.

14 (5) (a) "NONTRANSPLANT TISSUE BANK" MEANS A PERSON THAT,  
15 FOR ANY PURPOSE OTHER THAN TRANSPLANTATION INTO A LIVING HUMAN  
16 BEING, RECOVERS, TRANSPORTS, DISTRIBUTES, SCREENS, STORES, AND  
17 ARRANGES FOR THE STORAGE AND DISTRIBUTION OF HUMAN REMAINS.

18 (b) "NONTRANSPLANT TISSUE BANK" DOES NOT INCLUDE:

19 (I) AN EYE BANK, AN ORGAN PROCUREMENT ORGANIZATION, OR A  
20 TISSUE BANK, AS THOSE TERMS ARE DEFINED IN SECTION 15-19-202 (10),  
21 (16), AND (31), RESPECTIVELY;

22 (II) A FUNERAL ESTABLISHMENT REGISTERED IN ACCORDANCE  
23 WITH SECTION 12-54-110; OR

24 (III) A CREMATORY REGISTERED IN ACCORDANCE WITH SECTION  
25 12-54-303.

26 12-54.5-102. Registration required - repeal. (1) (a) BY JULY 1,  
27 2019, EACH NONTRANSPLANT TISSUE BANK SHALL REGISTER WITH THE

1 DIRECTOR IN THE FORM AND MANNER DETERMINED BY THE DIRECTOR. THE  
2 REGISTRATION MUST INCLUDE:

3 (I) THE SPECIFIC ADDRESS OF THE NONTRANSPLANT TISSUE BANK;

4 (II) THE FULL NAME AND ADDRESS OF THE DESIGNEE APPOINTED  
5 IN ACCORDANCE WITH SUBSECTION (2)(a) OF THIS SECTION;

6 (III) THE DATE THE NONTRANSPLANT TISSUE BANK BEGAN DOING  
7 BUSINESS;

8 (IV) THE TYPE OF SERVICES PROVIDED BY THE NONTRANSPLANT  
9 TISSUE BANK; AND

10 (V) A DESCRIPTION OF THE NONTRANSPLANT TISSUE BANK'S  
11 PREMISES AND EQUIPMENT.

12 (b) EACH NONTRANSPLANT TISSUE BANK REGISTRATION IS SUBJECT  
13 TO RENEWAL PURSUANT TO A SCHEDULE ESTABLISHED BY THE DIRECTOR  
14 IN ACCORDANCE WITH SECTION 24-34-102 (8) AND IN THE FORM AND  
15 MANNER DETERMINED BY THE DIRECTOR.

16 (c) IN ACCORDANCE WITH SECTION 24-34-105, THE DIRECTOR MAY  
17 ADJUST THE REGISTRATION FEE SET UNDER SUBSECTION (3) OF THIS  
18 SECTION AND ESTABLISH RENEWAL FEES AND DELINQUENCY FEES FOR  
19 REINSTATEMENT. IF A NONTRANSPLANT TISSUE BANK FAILS TO RENEW THE  
20 REGISTRATION IN ACCORDANCE WITH THE SCHEDULE ESTABLISHED BY THE  
21 DIRECTOR, THE REGISTRATION EXPIRES.

22 (2) (a) EACH NONTRANSPLANT TISSUE BANK SHALL APPOINT AN  
23 INDIVIDUAL AS THE DESIGNEE OF THE NONTRANSPLANT TISSUE BANK. A  
24 DESIGNEE MUST:

25 (I) BE AT LEAST EIGHTEEN YEARS OF AGE;

26 (II) HAVE AT LEAST TWO YEARS OF EXPERIENCE WORKING FOR A  
27 NONTRANSPLANT TISSUE BANK;

1           (III) BE EMPLOYED BY THE REGISTERED NONTRANSPLANT TISSUE  
2 BANK THAT THE DESIGNEE REPRESENTS;

3           (IV) HAVE THE AUTHORITY WITHIN THE NONTRANSPLANT TISSUE  
4 BANK'S ORGANIZATION TO REQUIRE THAT PERSONNEL COMPLY WITH THIS  
5 ARTICLE 54.5; AND

6           (V) NOT BE DESIGNATED FOR MORE THAN ONE NONTRANSPLANT  
7 TISSUE BANK UNLESS EACH ADDITIONAL NONTRANSPLANT TISSUE BANK IS  
8 OPERATED UNDER COMMON OWNERSHIP AND MANAGEMENT AND UNLESS  
9 EACH ADDITIONAL NONTRANSPLANT TISSUE BANK IS SIXTY MILES OR LESS  
10 FROM ALL OTHER NONTRANSPLANT TISSUE BANKS HELD UNDER THE SAME  
11 COMMON OWNERSHIP.

12           (b) IF, AFTER INITIAL REGISTRATION, THE NONTRANSPLANT TISSUE  
13 BANK APPOINTS A NEW DESIGNEE IN ACCORDANCE WITH SUBSECTION  
14 (2)(a) OF THIS SECTION, THE NONTRANSPLANT TISSUE BANK SHALL NOTIFY  
15 THE DIRECTOR WITHIN THIRTY DAYS AFTER APPOINTING THE DESIGNEE.

16           (3) TO REGISTER, A PERSON MUST PAY THE FEE SET BY THE  
17 DIRECTOR. THE DIRECTOR SHALL SET THE REGISTRATION FEE TO OFFSET  
18 THE DIVISION'S DIRECT AND INDIRECT COSTS OF IMPLEMENTING THIS  
19 ARTICLE 54.5. THE DIRECTOR SHALL TRANSMIT THE FEE TO THE STATE  
20 TREASURER, WHO SHALL CREDIT IT TO THE DIVISION OF PROFESSIONS AND  
21 OCCUPATIONS CASH FUND CREATED IN SECTION 24-34-105.

22           (4) THIS SECTION IS REPEALED, EFFECTIVE SEPTEMBER 1, 2024.  
23 BEFORE ITS REPEAL, THIS SECTION IS SCHEDULED FOR REVIEW IN  
24 ACCORDANCE WITH SECTION 24-34-104.

25           **12-54.5-103. Records and receipts.** (1) A NONTRANSPLANT  
26 TISSUE BANK SHALL FURNISH TO A PERSON WHO DELIVERS HUMAN  
27 REMAINS TO THE NONTRANSPLANT TISSUE BANK A RECEIPT, WHICH MUST

1 BE SIGNED BY BOTH THE NONTRANSPLANT TISSUE BANK AND THE PERSON  
2 WHO DELIVERS THE HUMAN REMAINS. THE NONTRANSPLANT TISSUE BANK  
3 SHALL RETAIN A COPY OF THE RECEIPT IN ITS RECORDS IN ACCORDANCE  
4 WITH SUBSECTION (2) OF THIS SECTION. THE RECEIPT MUST INCLUDE THE  
5 FOLLOWING:

- 6 (a) THE DATE AND TIME OF THE DELIVERY;
- 7 (b) THE NAME OF THE PERSON WHO DELIVERED THE HUMAN  
8 REMAINS;
- 9 (c) THE NAME OF THE DECEDENT;
- 10 (d) THE NAME OF ANY BUSINESSES WITH WHICH THE PERSON  
11 DELIVERING THE HUMAN REMAINS IS AFFILIATED; AND
- 12 (e) THE NAME OF THE PERSON WHO RECEIVED THE HUMAN  
13 REMAINS ON BEHALF OF THE NONTRANSPLANT TISSUE BANK.

14 (2) A NONTRANSPLANT TISSUE BANK SHALL MAINTAIN FOR AT  
15 LEAST THREE YEARS AT ITS REGISTERED LOCATION THE FOLLOWING  
16 RECORDS:

- 17 (a) THE DONOR'S FULL NAME AND ADDRESS;
- 18 (b) THE DATE OF DONATION;
- 19 (c) DOCUMENTATION OF THE DECEDENT'S INFORMED CONSENT OR  
20 THE CONSENT OF THE PERSON AUTHORIZED BY LAW TO CONSENT ON  
21 BEHALF OF THE DONOR TO THE DONATION;
- 22 (d) A DESCRIPTION OF THE HUMAN REMAINS TO BE DONATED FOR  
23 SCIENTIFIC OR EDUCATIONAL PURPOSES;
- 24 (e) DECEDENT MEDICAL HISTORY, INCLUDING ANY OF THE  
25 FOLLOWING IF USED BY THE NONTRANSPLANT TISSUE BANK: AUTOPSY  
26 REPORTS, DONATION QUESTIONNAIRES, AND OTHER DONOR OR DECEDENT  
27 SOLICITATION MATERIALS; AND

1 (f) TRACKING DOCUMENTATION OF THE TRANSPORT OF AND  
2 DELIVERY OF HUMAN REMAINS.

3 (3) A NONTRANSPLANT TISSUE BANK SHALL KEEP COMPLETE AND  
4 ACCURATE RECORDS AND MAKE THE RECORDS OPEN FOR INSPECTION BY  
5 THE DIRECTOR.

6 **12-54.5-104. Standards of practice. (1) A NONTRANSPLANT**  
7 **TISSUE BANK SHALL:**

8 (a) HANDLE HUMAN REMAINS IN A SAFE AND SANITARY MANNER;

9 (b) BE EQUIPPED WITH INSTRUMENTS AND SUPPLIES NECESSARY TO  
10 PROTECT THE HEALTH AND SAFETY OF THE PUBLIC AND EMPLOYEES OF THE  
11 NONTRANSPLANT TISSUE BANK; AND

12 (c) AFFIX IDENTIFICATION TO ALL HUMAN REMAINS DELIVERED TO  
13 THE NONTRANSPLANT TISSUE BANK AND PROVIDE TRACKING PAPERWORK  
14 TO MATCH THE IDENTIFICATION.

15 (2) A NONTRANSPLANT TISSUE BANK SHALL NOT COMMINGLE  
16 UNIDENTIFIED OR UNHARVESTED HUMAN REMAINS PRIOR TO TRANSFER TO  
17 A CREMATORY OR FUNERAL ESTABLISHMENT, AS THOSE TERMS ARE  
18 DEFINED IN SECTION 12-54-102 (5) AND (12), RESPECTIVELY.

19 (3) AN INCINERATOR THAT IS USED FOR THE DISPOSAL OF HUMAN  
20 REMAINS AND THAT IS OPERATED BY A REGISTERED NONTRANSPLANT  
21 TISSUE BANK NEED NOT BE REGISTERED UNDER PART 3 OF ARTICLE 54 OF  
22 THIS TITLE 12. THE INCINERATOR MAY COMMINGLE TISSUE FROM MEDICAL  
23 OR EDUCATIONAL RESEARCH FROM MULTIPLE DECEDENTS.

24 **12-54.5-105. Disclosure. (1) A NONTRANSPLANT TISSUE BANK**  
25 **SHALL DISCLOSE, IN CLEAR AND UNAMBIGUOUS TERMS, THE FOLLOWING**  
26 **INFORMATION TO THE DONOR OR TO THE PERSON AUTHORIZED BY LAW TO**  
27 **CONSENT TO DONATION:**

1           (a) THAT THE DONATED HUMAN REMAINS MAY BE DISTRIBUTED, IN  
2 WHOLE OR IN PART, BY THE NONTRANSPLANT TISSUE BANK;

3           (b) THAT THE DONATED HUMAN REMAINS MAY BE RETURNED, IN  
4 WHOLE OR IN PART, TO THE NONTRANSPLANT TISSUE BANK; AND

5           (c) THAT THE NONTRANSPLANT TISSUE BANK WILL BE  
6 COMPENSATED FOR DISTRIBUTION OF THE HUMAN REMAINS;

7           **12-54.5-106. Discipline.** (1) THE DIRECTOR MAY DENY, SUSPEND,  
8 REVOKE, OR PLACE ON PROBATION A NONTRANSPLANT TISSUE BANK OR  
9 ISSUE A LETTER OF ADMONITION TO AN APPLICANT FOR OR HOLDER OF A  
10 NONTRANSPLANT TISSUE BANK REGISTRATION IF THE NONTRANSPLANT  
11 TISSUE BANK OR APPLICANT:

12           (a) VIOLATES AN ORDER OF THE DIRECTOR, THIS ARTICLE 54.5, OR  
13 THE RULES ESTABLISHED UNDER THIS ARTICLE 54.5;

14           (b) MAKES A MATERIAL MISSTATEMENT OR OMISSION IN THE  
15 REGISTRATION OR THE APPLICATION FOR A REGISTRATION;

16           (c) VIOLATES FEDERAL LAW, COLORADO LAW, OR AN ORDINANCE  
17 OR RESOLUTION OF A POLITICAL SUBDIVISION OF COLORADO IN THE  
18 OPERATION OF THE NONTRANSPLANT TISSUE BANK; OR

19           (d) HAS INCURRED DISCIPLINARY ACTION RELATED TO THE  
20 ADMINISTRATION OF A NONTRANSPLANT TISSUE BANK IN ANOTHER  
21 JURISDICTION. EVIDENCE OF THIS DISCIPLINARY ACTION IS PRIMA FACIE  
22 EVIDENCE FOR DENIAL OF REGISTRATION OR OTHER DISCIPLINARY ACTION  
23 IF THE VIOLATION WOULD BE GROUNDS FOR DISCIPLINARY ACTION IN THIS  
24 STATE.

25           (2) TO BE VALID, A PROCEEDING TO DENY, SUSPEND, REVOKE, OR  
26 PLACE ON PROBATION A REGISTRATION MUST BE CONDUCTED IN  
27 ACCORDANCE WITH SECTIONS 24-4-104 AND 24-4-105. THE DIRECTOR



1 MAY USE AN ADMINISTRATIVE LAW JUDGE EMPLOYED BY THE OFFICE OF  
2 ADMINISTRATIVE COURTS IN THE DEPARTMENT OF PERSONNEL TO  
3 CONDUCT A HEARING.

4 **12-54.5-107. Violations and penalties.** A PERSON WHO VIOLATES  
5 THIS ARTICLE 54.5 IS GUILTY OF A MISDEMEANOR AND, UPON CONVICTION,  
6 SHALL BE PUNISHED BY A FINE OF NOT MORE THAN FIVE THOUSAND  
7 DOLLARS, IMPRISONMENT IN THE COUNTY JAIL FOR NOT MORE THAN  
8 EIGHTEEN MONTHS, OR BOTH THE FINE AND IMPRISONMENT.

9 **SECTION 4.** In Colorado Revised Statutes, 24-34-104, amend  
10 (25)(a)(XIII) as follows:

11 **24-34-104. General assembly review of regulatory agencies**  
12 **and functions for repeal, continuation, or reestablishment - legislative**  
13 **declaration - repeal.** (25) (a) The following agencies, functions, or both,  
14 are scheduled for repeal on September 1, 2024:

15 (XIII) The regulation of persons registered to practice mortuary  
16 science by sections 12-54-110 and 12-54-111 and cremation by sections  
17 12-54-303 and 12-54-304, and the administration thereof in accordance  
18 with part 4 of article 54 of title 12, AND THE REGULATION OF  
19 NONTRANSPLANT TISSUE BANKS BY SECTION 12-54.5-102;

20 **SECTION 5.** In Colorado Revised Statutes, 12-54-303, amend (1)  
21 as follows:

22 **12-54-303. Registration required.** (1) Unless practicing at a  
23 registered crematory pursuant to UNDER this section AND EXCEPT AS  
24 PROVIDED IN SECTION 12-54.5-104 (3), a person shall not practice as, or  
25 offer the services of, a cremationist, nor shall the crematory sell or offer  
26 to sell funeral goods and services to the public.

27 **SECTION 6. Appropriation.** (1) For the 2018-19 state fiscal

1 year, \$17,159 is appropriated to the department of regulatory agencies.  
2 This appropriation is from the division of professions and occupations  
3 cash fund created in section 24-34-105 (2)(b)(I), C.R.S. To implement  
4 this act, the department may use this appropriation as follows:

5 (a) \$11,831 for use by division of professions and occupations for  
6 personal services, which amount is based on an assumption that the  
7 division will require an additional 0.3 FTE; and

8 (b) \$5,328 for the purchase of legal services.

9 (2) For the 2018-19 state fiscal year, \$5,328 is appropriated to the  
10 department of law. This appropriation is from reappropriated funds  
11 received from the department of regulatory agencies under subsection  
12 (1)(b) of this section. To implement this act, the department of law may  
13 use this appropriation to provide legal services for the department of  
14 regulatory agencies.

15 **SECTION 7. Act subject to petition - effective date.** This act  
16 takes effect at 12:01 a.m. on the day following the expiration of the  
17 ninety-day period after final adjournment of the general assembly (August  
18 8, 2018, if adjournment sine die is on May 9, 2018); except that, if a  
19 referendum petition is filed pursuant to section 1 (3) of article V of the  
20 state constitution against this act or an item, section, or part of this act  
21 within such period, then the act, item, section, or part will not take effect  
22 unless approved by the people at the general election to be held in  
23 November 2018 and, in such case, will take effect on the date of the  
24 official declaration of the vote thereon by the governor.