

**First Regular Session  
Sixty-eighth General Assembly  
STATE OF COLORADO**

**INTRODUCED**

LLS NO. 11-0079.01 Jery Payne

**HOUSE BILL 11-1178**

---

**HOUSE SPONSORSHIP**

**Looper,**

**SENATE SPONSORSHIP**

**Williams S.,**

---

**House Committees**  
Economic and Business Development

**Senate Committees**

---

**A BILL FOR AN ACT**

101     **CONCERNING THE REGULATION OF PERSONS WHO DISPOSE OF DEAD**  
102     **HUMAN BODIES IN THE ORDINARY COURSE OF LAWFUL BUSINESS.**

---

**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://www.leg.state.co.us/billsummaries>.)*

The current regulation of crematories assumes that cremation occurs through intense heat. The standards for cremation are updated to include alternatives, such as chemical methods.

Currently, a funeral establishment must be registered if it "provides" funeral goods or services to the public, but some

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

establishments believe that merely selling these goods and services is not "providing" them. The registration requirement is clarified to cover selling and offering to sell funeral goods and services and providing memorial services.

Currently, a funeral establishment must notify customers of subcontractors and suppliers. This requirement is narrowed to apply only when the subcontractor handles or cares for the dead human body.

The bill also clarifies that a cemetery or mausoleum may be used to dispose of unclaimed cremated remains and that there is no liability for records that are destroyed unless the custodian is negligent. A funeral establishment or crematory is authorized to dispose of remains abandoned for 3 years in an unrecoverable manner. The title protection standards are broadened to include a person who has obtained a mortuary science certificate from an accredited school. Finally, a cremationist is required to use a cremation chamber exclusively for human remains.

---

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

2           **SECTION 1.** 12-54-102 (4), (5), and (12), Colorado Revised  
3 Statutes, are amended, and the said 12-54-102 is further amended BY  
4 THE ADDITION OF THE FOLLOWING NEW SUBSECTIONS, to  
5 read:

6           **12-54-102. Definitions.** As used in this article, unless the context  
7 otherwise requires:

8           (4) "Cremation" or "cremate" means the reduction of a dead  
9 human body to essential elements, ~~through direct exposure to intense~~  
10 ~~heat~~, the processing of the remains, and the placement of the processed  
11 remains in a cremated remains container.

12           (4.3) "CREMATION CHAMBER" MEANS THE ENCLOSED SPACE INSIDE  
13 OF WHICH DEAD HUMAN BODIES ARE CREMATED.

14           (5) "Crematory" means a building, FACILITY, or structure  
15 ~~containing one or more cremation chambers or retorts for the cremation~~  
16 ~~of~~ WHERE dead human bodies ARE CREMATED.

17           (5.3) "CUSTODIAN" MEANS THE PERSON WITH POSSESSION AND

1 CONTROL OF DEAD HUMAN REMAINS.

2 (12) "Funeral establishment" means:

3 (a) An establishment that holds, cares for, or prepares a dead  
4 human body prior to final disposition, including ~~but not limited to~~, a  
5 crematory or embalming room; except that this paragraph (a) does not  
6 apply to establishments in which individuals regularly die;

7 (b) An establishment that provides, SELLS, OR OFFERS TO SELL  
8 funeral goods ~~and~~ OR services to the public; ~~or~~

9 (c) Facilities used to hold, care for, or prepare a dead human body  
10 prior to final disposition; except that this paragraph (c) does not apply to  
11 facilities in which individuals regularly die; OR

12 (d) AN ESTABLISHMENT THAT PROVIDES FUNERAL OR MEMORIAL  
13 SERVICES TO THE PUBLIC FOR COMPENSATION.

14 (17.5) "OSSUARY" MEANS A RECEPTACLE USED FOR THE  
15 COMMUNAL PLACEMENT OF CREMATED REMAINS, WITHOUT USING AN URN  
16 OR OTHER CONTAINER, IN WHICH CREMATED REMAINS ARE COMMINGLED  
17 WITH OTHER CREMATED REMAINS.

18 **SECTION 2.** 12-54-103 (1), Colorado Revised Statutes, is  
19 amended to read:

20 **12-54-103. Funeral establishment.** (1) A funeral establishment  
21 shall have the appropriate equipment and personnel to adequately provide  
22 the funeral services it contracts to provide and shall provide written notice  
23 to the consumer specifying any subcontractors OR agents ~~or other~~  
24 ~~equipment and personnel providers for the funeral establishment. Such~~  
25 ~~notice shall be~~ ROUTINELY HANDLING OR CARING FOR THE DEAD HUMAN  
26 BODY. TO COMPLY, THE NOTICE MUST BE given when the consumer  
27 inquires about the goods or services the funeral establishment provides

1 and ~~shall provide~~ MUST INCLUDE the names and addresses of ~~such~~ THE  
2 subcontractors, agents, or other providers; except that, if ~~such~~ THE inquiry  
3 is over the telephone, ~~such~~ THE written notice ~~shall~~ MUST be provided  
4 ~~before~~ WHEN the customer ~~selects~~ FINALIZES THE ARRANGEMENTS FOR  
5 goods or services WITH THE FUNERAL ESTABLISHMENT.

6 **SECTION 3.** 12-54-104 (1) (j), Colorado Revised Statutes, is  
7 amended to read:

8 **12-54-104. Unlawful acts.** (1) It is unlawful:

9 (j) To refuse to properly and promptly release a dead human body  
10 OR CREMATED REMAINS to the custody of the person who has the legal  
11 right to effect such release whether or not any costs have been paid;

12 **SECTION 4.** 12-54-108 (5) (a), Colorado Revised Statutes, is  
13 amended to read:

14 **12-54-108. Exceptions - safe harbor.** (5) (a) (I) A FUNERAL  
15 ESTABLISHMENT, funeral director, or mortuary science practitioner may  
16 dispose of cremated remains at the expense of the person with the right  
17 of final disposition one hundred eighty days after cremation if the person  
18 was given clear prior notice of this paragraph (a) and a reasonable  
19 opportunity to collect the cremated remains, the exact location of the  
20 FINAL disposition and the costs associated with the FINAL disposition are  
21 recorded, and the recovery of the cremated remains is possible. Recovery  
22 of costs ~~shall be~~ IS limited to a reasonable amount of the costs actually  
23 expended by the FUNERAL ESTABLISHMENT, funeral director, or mortuary  
24 science practitioner.

25 (II) A FUNERAL ESTABLISHMENT, FUNERAL DIRECTOR, OR  
26 MORTUARY SCIENCE PRACTITIONER MAY COMPLY WITH THIS PARAGRAPH  
27 (a) BY TRANSFERRING THE CREMATED REMAINS AND THE RECORDS

1       SHOWING THE FUNERAL ESTABLISHMENT AND THE DECEASED'S NAME,  
2       DATE OF BIRTH, AND NEXT OF KIN FOR FINAL DISPOSITION TO A FACILITY  
3       OR PLACE NORMALLY USED FOR FINAL DISPOSITION IF THE NEW CUSTODIAN  
4       CAN COMPLY WITH THIS PARAGRAPH (a).

5               (III) IF CREMATED REMAINS ARE NOT CLAIMED BY THE PERSON  
6       WITH THE RIGHT OF FINAL DISPOSITION WITHIN THREE YEARS AFTER  
7       CREMATION, A FUNERAL ESTABLISHMENT, FUNERAL DIRECTOR, OR  
8       MORTUARY SCIENCE PRACTITIONER MAY DISPOSE OF THE REMAINS IN AN  
9       UNRECOVERABLE MANNER BY PLACING THE REMAINS IN AN OSSUARY OR  
10      BY SCATTERING THE REMAINS IN A DEDICATED CEMETERY, SCATTERING  
11      GARDEN, OR CONSECRATED GROUND USED EXCLUSIVELY FOR THESE  
12      PURPOSES.

13              (IV) THE CUSTODIAN IS NOT LIABLE FOR THE LOSS OR  
14      DESTRUCTION OF RECORDS REQUIRED TO BE KEPT BY THIS PARAGRAPH (a)  
15      IF THE LOSS OR DESTRUCTION WAS NOT CAUSED BY THE CUSTODIAN'S  
16      NEGLIGENCE.

17              **SECTION 5.** The introductory portion to 12-54-111 (1) and  
18      12-54-111 (1) (b), Colorado Revised Statutes, are amended to read:

19              **12-54-111. Title protection.** (1) A person shall not advertise,  
20      represent, or hold oneself out as or use the title of a mortuary science  
21      practitioner unless the ~~applicant~~ PERSON:

22              (b) Has graduated with a CERTIFICATE, DIPLOMA, OR degree in  
23      mortuary science from:

24              (I) A PROGRAM ACCREDITED BY THE AMERICAN BOARD OF  
25      FUNERAL SERVICE EDUCATION OR ITS SUCCESSOR, IF THE SUCCESSOR IS  
26      APPROVED BY THE DIRECTOR, AND THE PROGRAM IS PART OF A SCHOOL OF  
27      HIGHER EDUCATION; OR

1 (II) A school of higher education accredited by the American  
2 board of funeral service education or its successor, if the successor is  
3 approved by the director; and

4 **SECTION 6.** 12-54-302 (2) (a), Colorado Revised Statutes, is  
5 amended to read:

6 **12-54-302. Exceptions - safe harbor.** (2) (a) (I) A cremationist  
7 may dispose of cremains at the expense of the person with the right of  
8 final disposition one hundred eighty days after cremation if the person  
9 was given clear prior notice of this paragraph (a) and a reasonable  
10 opportunity to collect the cremains, the exact location of the FINAL  
11 disposition and the costs associated with the FINAL disposition are  
12 recorded, and the recovery of the cremains is possible. Recovery of costs  
13 ~~shall be~~ IS limited to a reasonable amount of the costs actually expended  
14 by the cremationist.

15 (II) A CREMATIONIST MAY COMPLY WITH THIS PARAGRAPH (a) BY  
16 TRANSFERRING THE CREMATED REMAINS AND THE RECORDS SHOWING THE  
17 FUNERAL ESTABLISHMENT AND THE DECEASED'S NAME, DATE OF BIRTH,  
18 AND NEXT OF KIN FOR FINAL DISPOSITION TO A FACILITY OR PLACE  
19 NORMALLY USED FOR FINAL DISPOSITION IF THE NEW CUSTODIAN CAN  
20 COMPLY WITH THIS PARAGRAPH (a).

21 (III) IF CREMATED REMAINS ARE NOT CLAIMED BY THE PERSON  
22 WITH THE RIGHT OF FINAL DISPOSITION WITHIN THREE YEARS AFTER  
23 CREMATION, A CREMATIONIST MAY DISPOSE OF THE REMAINS IN AN  
24 UNRECOVERABLE MANNER BY PLACING THE REMAINS IN AN OSSUARY OR  
25 BY SCATTERING THE REMAINS IN A DEDICATED CEMETERY, SCATTERING  
26 GARDEN, OR CONSECRATED GROUND USED EXCLUSIVELY FOR THESE  
27 PURPOSES.

1 (IV) THE CUSTODIAN IS NOT LIABLE FOR THE LOSS OR  
2 DESTRUCTION OF RECORDS REQUIRED TO BE KEPT BY THIS PARAGRAPH (a)  
3 IF THE LOSS OR DESTRUCTION WAS NOT CAUSED BY THE CUSTODIAN'S  
4 NEGLIGENCE.

5 **SECTION 7.** 12-54-307 (2) (a) (IX), the introductory portion to  
6 12-54-307 (3) (c), and 12-54-307 (3) (c) (I), Colorado Revised Statutes,  
7 are amended, and the said 12-54-307 (3) (c) is further amended BY THE  
8 ADDITION OF A NEW SUBPARAGRAPH, to read:

9 **12-54-307. Standards of practice - cremating.** (2) (a) A  
10 crematory shall not cremate a dead human body unless the crematory has  
11 obtained a statement containing the following from a funeral  
12 establishment, funeral director, mortuary science practitioner, or the  
13 person with the right of final disposition:

14 (IX) A copy of the ~~death certificate~~ DISPOSITION PERMIT; and

15 (3) (c) A cremation container ~~shall~~ MUST:

16 (I) Be composed of ~~combustible~~ materials suitable for cremation;

17 (VI) BE USED EXCLUSIVELY FOR THE CREMATION OF HUMAN  
18 REMAINS.

19 **SECTION 8. Act subject to petition - effective date -**  
20 **applicability.** (1) This act shall take effect at 12:01 a.m. on the day  
21 following the expiration of the ninety-day period after final adjournment  
22 of the general assembly (August 10, 2011, if adjournment sine die is on  
23 May 11, 2011); except that, if a referendum petition is filed pursuant to  
24 section 1 (3) of article V of the state constitution against this act or an  
25 item, section, or part of this act within such period, then the act, item,  
26 section, or part shall not take effect unless approved by the people at the  
27 general election to be held in November 2012 and shall take effect on the

- 1 date of the official declaration of the vote thereon by the governor.
- 2 (2) The provisions of this act shall apply to acts committed on or
- 3 after the applicable effective date of this act.