S T A T E O F N E W Y O R K

4216

2009-2010 Regular Sessions

I N A S S E M B L Y

February 2, 2009

Introduced by M. of A. BRODSKY -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to anatomical gifts

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Section 4307 of the public health law, as amended by chapter 346 of the laws of 2006, is amended to read as follows:

S 4307. Prohibition of sales and purchases of human organs. 1. It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer for valuable consideration any human organ for use in human transplantation. The term human organ means the human kidney, liver, heart, lung, bone marrow, and any other human organ or tissue as may be designated by the commissioner but shall exclude blood. The term "valuable consideration" does not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ or the expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the organ. Any person who violates this section shall be guilty of a class E felony.

2. FOR THE PURPOSES OF THIS SECTION, THE DONATION OF A KIDNEY OR OTHER ORGAN FROM A LIVE DONOR FOR TRANSPLANTATION INTO AN INDIVIDUAL CONDITIONED UPON THE DONATION AND TRANSPLANTATION OF A SIMILAR ORGAN INTO AN INDIVIDUAL SPECIFIED BY THE DONOR SHALL NOT, IN AND OF ITSELF, BE CONSIDERED TO BE "VALUABLE CONSIDERATION" PROVIDED THAT SUCH DONATION AND TRANSPLANT ARE PERFORMED IN ACCORDANCE WITH OTHER APPLICABLE LAWS, RULES AND REGULATIONS, INCLUDING ANY SPECIFIC RULES AND REGULATIONS THE COMMISSIONER MAY ADOPT, WITH THE ADVICE AND CONSENT OF THE TRANSPLANT COUNCIL, WITH RESPECT TO SUCH CONDITIONAL DONATIONS. NO INDIVIDUAL MAY MAKE A DONATION CONDITIONED UPON THE RACE, COLOR, CREED, NATIONAL ORIGIN OR RELIGIOUS AFFILIATION OF THE RECIPIENT, AND NO HOSPITAL, ORGAN PROCUREMENT ORGANIZATION, TISSUE BANK, PHYSICIAN OR OTHER PROFESSIONAL

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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MAY PARTICIPATE IN THE PERFORMANCE OF ANY PROCEDURE OR OTHERWISE FACILITATE THE DONATION AND/OR TRANSFER OF ORGANS AND/OR TISSUE CONDITIONED ON SUCH FACTORS.

S 2. This act shall take effect immediately.