

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. KAVANAGH, GALEF, REILLY, ZEBROWSKI, MILLMAN, GABRYSZAK, ESPAILLAT, HOOPER -- Multi-Sponsored by -- M. of A. CALHOUN, FINCH, GIGLIO, GORDON, KOON, McDONOUGH, PHEFFER, QUINN, TOBACCO, WALKER, WEISENBERG -- read once and referred to the Committee on Health

AN ACT to amend the public health law, in relation to sales and purchases of human organs

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

1 Section 1. Section 4307 of the public health law, as amended by chap-
2 ter 346 of the laws of 2006, is amended to read as follows:
3 S 4307. Prohibition of sales and purchases of human organs OR BODY
4 PARTS. 1. It shall be unlawful for any person to knowingly acquire,
5 receive, or otherwise transfer for valuable consideration any human
6 organ for use in human transplantation, OR TO PROCURE ANY BODY PART IN
7 VIOLATION OF THIS SECTION. [The term human organ means the human kidney,
8 liver, heart, lung, bone marrow, and any other human organ or tissue as
9 may be designated by the commissioner but shall exclude blood. The term
10 "valuable consideration" does not include the reasonable payments asso-
11 ciated with the removal, transportation, implantation, processing, pres-
12 ervation, quality control, and storage of a human organ or the expenses
13 of travel, housing, and lost wages incurred by the donor of a human
14 organ in connection with the donation of the organ.] Any person who
15 violates this section shall be guilty of a class E felony FOR EACH
16 INSTANCE OF SALE.
17 2. FOR PURPOSES OF THIS SECTION:
18 (A) THE TERM "PROCURE" MEANS AND INCLUDES THE ACT OF KNOWINGLY ACQUIR-
19 ING, RECEIVING, OR OTHERWISE TRANSFERRING;

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

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1 (B) THE TERM "HUMAN ORGAN" MEANS THE HUMAN KIDNEY, LIVER, HEART, LUNG,
2 BONE MARROW, AND ANY OTHER HUMAN ORGAN OR TISSUE AS MAY BE DESIGNATED BY
3 THE COMMISSIONER BUT SHALL EXCLUDE BLOOD;

4 (C) THE TERM "VALUABLE CONSIDERATION" DOES NOT INCLUDE THE REASONABLE
5 PAYMENTS ASSOCIATED WITH THE REMOVAL, TRANSPORTATION, IMPLANTATION,
6 PROCESSING, PRESERVATION, QUALITY CONTROL, AND STORAGE OF A HUMAN ORGAN
7 OR THE EXPENSES OF TRAVEL, HOUSING, AND LOST WAGES INCURRED BY THE DONOR
8 OF A HUMAN ORGAN IN CONNECTION WITH THE DONATION OF THE ORGAN OR REASON-
9 ABLE COMPENSATION FOR RESTORATIVE WORK PERFORMED BY A LICENSED FUNERAL
10 DIRECTOR IN CONNECTION WITH PROCUREMENT OF A HUMAN ORGAN;

11 (D) THE TERM "BODY PART" MEANS AND INCLUDES THE TERMS INCLUDED IN THE
12 DEFINITION OF BODY PART PURSUANT TO SUBDIVISION FIVE OF SECTION
13 FORTY-THREE HUNDRED OF THIS ARTICLE, BUT SHALL EXCLUDE BLOOD OR ANY
14 OTHER ELEMENT AS THE COMMISSIONER MAY DEEM NECESSARY.

15 3. THE COMMISSIONER SHALL PRESCRIBE RULES AND REGULATIONS CONCERNING
16 PROCUREMENT OF HUMAN BODY PARTS, WHICH SHALL REQUIRE AT A MINIMUM THAT

17 (A) ALL PROCUREMENT OF SUCH BODY PARTS BE PERFORMED ONLY BY A FACILITY
18 REGISTERED WITH THE DEPARTMENT TO UNDERTAKE SUCH PROCUREMENT, (B) ALL
19 FACILITIES REGISTERED FOR PROCUREMENT OF HUMAN BODY PARTS SHALL REPORT
20 AND DOCUMENT THE PROCUREMENT OF EACH BODY PART TO THE MEDICAL EXAMINER
21 OR CORONER OF THE COUNTY WHERE THE FACILITY IS LOCATED, AND (C) NO
22 FUNERAL DIRECTOR, UNDERTAKER, REGISTERED RESIDENT, MORTUARY STUDENT OR
23 REGISTERED FUNERAL HOME OR FACILITY SHALL CONDUCT OR PARTICIPATE IN
24 PROCUREMENT OF HUMAN BODY PARTS.

25 S 2. This act shall take effect immediately.