

2187

2009-2010 Regular Sessions

I N   S E N A T E

February 13, 2009

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Introduced by Sens. GOLDEN, DeFRANCISCO, O. JOHNSON, LARKIN, MORAHAN --  
read twice and ordered printed, and when printed to be committed 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 ASSEM-  
BLY, 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;  
20    (B) THE TERM "HUMAN ORGAN" MEANS THE HUMAN KIDNEY, LIVER, HEART, LUNG,  
21    BONE MARROW, AND ANY OTHER HUMAN ORGAN OR TISSUE AS MAY BE DESIGNATED BY  
22    THE COMMISSIONER BUT SHALL EXCLUDE BLOOD;  
23    (C) THE TERM "VALUABLE CONSIDERATION" DOES NOT INCLUDE THE REASONABLE  
24    PAYMENTS ASSOCIATED WITH THE REMOVAL, TRANSPORTATION, IMPLANTATION,

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

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1 PROCESSING, PRESERVATION, QUALITY CONTROL, AND STORAGE OF A HUMAN ORGAN  
2 OR THE EXPENSES OF TRAVEL, HOUSING, AND LOST WAGES INCURRED BY THE DONOR  
3 OF A HUMAN ORGAN IN CONNECTION WITH THE DONATION OF THE ORGAN OR REASON-  
4 ABLE COMPENSATION FOR RESTORATIVE WORK PERFORMED BY A LICENSED FUNERAL  
5 DIRECTOR IN CONNECTION WITH PROCUREMENT OF A HUMAN ORGAN;

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

10 3. THE COMMISSIONER SHALL PRESCRIBE RULES AND REGULATIONS CONCERNING

11 PROCUREMENT OF HUMAN BODY PARTS, WHICH SHALL REQUIRE AT A MINIMUM THAT

12 (A) ALL PROCUREMENT OF SUCH BODY PARTS BE PERFORMED ONLY BY A FACILITY

13 REGISTERED WITH THE DEPARTMENT TO UNDERTAKE SUCH PROCUREMENT, (B) ALL

14 FACILITIES REGISTERED FOR PROCUREMENT OF HUMAN BODY PARTS SHALL REPORT

15 AND DOCUMENT THE PROCUREMENT OF EACH BODY PART TO THE MEDICAL EXAMINER

16 OR CORONER OF THE COUNTY WHERE THE FACILITY IS LOCATED, AND (C) NO

17 FUNERAL DIRECTOR, UNDERTAKER, REGISTERED RESIDENT, MORTUARY STUDENT OR

18 REGISTERED FUNERAL HOME OR FACILITY SHALL CONDUCT OR PARTICIPATE IN

19 PROCUREMENT OF HUMAN BODY PARTS.

20 S 2. This act shall take effect immediately.