

SENATE BILL NO. 381

February 24, 1999, Introduced by Senators STILLE, GOSCHKA, HAMMERSTROM, SHUGARS, SIKKEMA, HOFFMAN, SCHWARZ, ROGERS and BENNETT and referred to the Committee on Health Policy.

A bill to amend 1978 PA 368, entitled "Public health code," by amending section 10204 (MCL 333.10204), as amended by 1988 PA 63.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 10204. (1) Except as otherwise provided in subsection
2 (2), a person shall not knowingly acquire, receive, or otherwise
3 transfer a human organ or part of a human organ for valuable con-
4 sideration for any purpose, including, but not limited to, trans-
5 plantation, implantation, infusion, injection, or other medical
6 or scientific purpose. A person who violates this subsection is
7 guilty of a felony.

8 (2) ~~This section~~ SUBSECTION (1) does not prohibit any of
9 the following practices:

1 (a) The removal and use of a human cornea pursuant to
2 section 10202, or the removal and use of a human pituitary gland
3 pursuant to section 2855.

4 (b) An anatomical gift pursuant to part 101, or the acquisi-
5 tion or distribution of bodies or parts by the ~~anatomy board~~
6 DIRECTOR pursuant to sections 2651 to 2663.

7 (c) Financial assistance payments provided under a plan of
8 insurance or other health care coverage.

9 (3) ONLY AN INDIVIDUAL WHO IS 1 OF THE FOLLOWING MAY SURGI-
10 CALLY REMOVE A HUMAN ORGAN FOR TRANSPLANTATION, IMPLANTATION,
11 INFUSION, INJECTION, OR ANY OTHER MEDICAL OR SCIENTIFIC PURPOSE:

12 (A) A PHYSICIAN LICENSED UNDER ARTICLE 15.

13 (B) AN INDIVIDUAL EMPLOYED BY AND ACTING UNDER THE DIRECTION
14 OF A FEDERALLY DESIGNATED ORGAN PROCUREMENT ORGANIZATION OR UNDER
15 THE DIRECTION OF A TISSUE BANK OR EYE BANK REGISTERED WITH THE
16 FEDERAL FOOD AND DRUG ADMINISTRATION IN THE COURSE OF HIS OR HER
17 EMPLOYMENT.

18 (C) AN INDIVIDUAL ACTING UNDER THE DELEGATORY AUTHORITY AND
19 SUPERVISION OF A PHYSICIAN PURSUANT TO SECTION 16215(2), BUT NOT
20 INCLUDING AN INDIVIDUAL WHOSE LICENSE HAS BEEN SUSPENDED OR
21 REVOKED UNDER ARTICLE 15.

22 (D) FOR THE PURPOSES OF SURGICALLY REMOVING A HUMAN ORGAN
23 THAT IS AN EYE OR A PHYSICAL PART OF AN EYE ONLY, AN INDIVIDUAL
24 CERTIFIED BY A STATE MEDICAL SCHOOL AS DESCRIBED IN
25 SECTION 10105.

26 (4) AN INDIVIDUAL WHO SURGICALLY REMOVES A HUMAN ORGAN FOR
27 TRANSPLANTATION, IMPLANTATION, INFUSION, INJECTION, OR ANY OTHER

1 MEDICAL OR SCIENTIFIC PURPOSE SHALL PERFORM THE SURGERY ONLY IN A
2 HOSPITAL LICENSED UNDER ARTICLE 17 OR IN ANOTHER FACILITY
3 APPROVED BY THE DIRECTOR OF THE DEPARTMENT OF COMMUNITY HEALTH.

4 (5) AN INDIVIDUAL WHO VIOLATES SUBSECTION (3) OR (4) IS
5 GUILTY OF A FELONY.

6 (6) ~~(3)~~ As used in this section:

7 (a) "Human organ" means the human kidney, liver, heart,
8 lung, pancreas, bone marrow, cornea, eye, bone, skin, cartilage,
9 dura mater, ligaments, tendons, fascia, pituitary gland, and
10 middle ear structures and any other human organ specified by rule
11 promulgated by the department. Human organ does not include
12 whole blood, blood plasma, blood products, blood derivatives,
13 other self-replicating body fluids, or human hair.

14 (b) "Valuable consideration" does not include the reasonable
15 payments associated with the removal, transportation, implanta-
16 tion, processing, preservation, quality control, and storage of a
17 human organ or the medical expenses and expenses of travel, hous-
18 ing, and lost wages incurred by the donor of a human organ in
19 connection with the donation of the human organ.

20 (7) ~~(4)~~ The department may promulgate rules to specify
21 human organs in addition to the human organs listed in subsection
22 ~~(3)(a)~~ (6)(A).