

By: Dawson, Edwards, Davis of Harris,
Anderson, Coleman, et al.

H.B. No. 120

Substitute the following for H.B. No. 120:

By: Truitt

C.S.H.B. No. 120

A BILL TO BE ENTITLED

AN ACT

relating to the creation of a donor education, awareness, and registry program, the establishment of an organ donor and tissue council, and anatomical gift donation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Sections 521.401(b), (c), and (d), Transportation Code, are amended to read as follows:

(b) The statement of gift may be shown on a donor's driver's license or personal identification certificate or by a card designed to be carried by the donor to evidence the donor's intentions with respect to organ, tissue, and eye donation. A donor card signed by the donor shall be given effect as if executed pursuant to Section 692.003(d), Health and Safety Code.

(c) Donor cards shall be provided to the department by qualified organ or tissue procurement organizations or eye banks, as those terms are defined in Section 692.002, Health and Safety Code. The department shall:

(1) provide to each applicant for the issuance of an original, renewal, corrected, or duplicate driver's license or personal identification certificate who applies in person, by mail, over the Internet, or by other electronic means:

(A) the opportunity to indicate on the person's driver's license or personal identification certificate that the person is willing to make an anatomical gift, in the event of death,

1 in accordance with Section 692.003, Health and Safety Code; and

2 (B) an opportunity for the person to consent in
3 writing to the department's provision of the person's name, date of
4 birth, driver's license number, and most recent address to the
5 organization selected by the public safety director under Section
6 521.406 for inclusion in the statewide Internet-based registry of
7 organ, tissue, and eye donors and for release to qualified organ,
8 tissue, and eye bank organizations; and

9 (2) provide a means to distribute donor cards to
10 interested individuals in each office authorized to issue driver's
11 licenses or personal identification certificates~~[. The department~~
12 ~~and other appropriate state agencies, in cooperation with qualified~~
13 ~~organ, tissue, and eye bank organizations shall pursue the~~
14 ~~development of a combined statewide database of donors].~~

15 (d) An ~~[Effective September 1, 1997, a statement of gift on~~
16 ~~driver's licenses or personal identification certificates shall~~
17 ~~have no force and effect, provided, however, that an]~~ affirmative
18 statement of gift on a person's driver's license or personal
19 identification certificate executed after August 31, 2005 ~~[prior to~~
20 ~~September 1, 1997]~~, shall be conclusive evidence of a decedent's
21 status as a donor and serve as consent for organ, tissue, and eye
22 removal.

23 SECTION 2. Section 521.402, Transportation Code, is amended
24 by amending Subsection (a) and adding Subsection (c) to read as
25 follows:

26 (a) To revoke an affirmative statement of gift on a person's
27 driver's license or personal identification certificate ~~[made~~

1 ~~prior to September 1, 1997~~], a person must apply to the department
2 for an amendment to the license or certificate.

3 (c) To have a person's name deleted from the statewide
4 Internet-based registry of organ, tissue, and eye donors maintained
5 as provided by Section 521.406, a person must provide written
6 notice to the organization selected by the public safety director
7 under that section to maintain the registry directing the deletion
8 of the person's name from the registry. On receipt of a written
9 notice under this subsection, the organization shall promptly
10 remove the person's name and information from the registry.

11 SECTION 3. Section 521.403, Transportation Code, is amended
12 to read as follows:

13 Sec. 521.403. INFORMATION PROVIDED TO HOSPITAL. The donor
14 card of a person who is involved in an accident or other trauma
15 shall accompany the person to the hospital or other health care
16 facility. The driver's license or personal identification
17 certificate [~~issued prior to September 1, 1997~~] indicating an
18 affirmative statement of gift of a person who is involved in an
19 accident or other trauma[~~7~~] shall accompany the person to the
20 hospital or health care facility if the person does not have a donor
21 card.

22 SECTION 4. Subchapter Q, Chapter 521, Transportation Code,
23 is amended by adding Section 521.406 to read as follows:

24 Sec. 521.406. DONOR EDUCATION, AWARENESS, AND REGISTRY
25 PROGRAM OF TEXAS. (a) In consultation with the Department of State
26 Health Services and organ procurement organizations, the
27 department shall establish the Donor Education, Awareness, and

1 Registry Program of Texas.

2 (b) The department shall enter into an agreement with an
3 organization selected by the public safety director under a
4 competitive proposal process for the establishment and maintenance
5 of a statewide Internet-based registry of organ, tissue, and eye
6 donors. The organization must be an independent nonprofit
7 organization that is currently and has been solely engaged in organ
8 donation and registration programs for at least seven years and
9 that is not engaged directly or indirectly in any aspect of organ,
10 tissue, or eye procurement or placement. Contingent on the
11 continued availability of appropriations under Subsection (f), the
12 term of the initial agreement is two years and is automatically
13 renewed for two-year terms thereafter unless terminated in a
14 written notice to the other party by the department or organization
15 not later than the 180th day before the last day of a term.

16 (c) The department shall electronically transfer to the
17 organization selected by the public safety director as provided by
18 Subsection (b) the name, date of birth, driver's license number,
19 and most recent address of any person who indicates on the person's
20 driver's license application under Section 521.401 that the person
21 would like to make an anatomical gift and consents in writing to the
22 department's release of the information to the organization for
23 inclusion in the statewide Internet-based registry of organ,
24 tissue, and eye donors.

25 (d) The organization selected by the public safety director
26 as provided by Subsection (b) shall:

27 (1) make information obtained from the department

1 under Subsection (c) available to qualified organ, tissue, and eye
2 bank organizations; and

3 (2) maintain the statewide Internet-based registry of
4 organ, tissue, and eye donors in a manner that allows qualified
5 organ, tissue, and eye bank organizations to immediately access
6 organ, tissue, and eye donation information 24 hours a day, seven
7 days a week, through electronic and telephonic methods.

8 (e) The department shall make available in each office
9 authorized to issue driver's licenses or personal identification
10 certificates educational materials developed by the organization
11 selected by the public safety director for purposes of the program
12 established under this section.

13 (f) The department shall remit to the organization selected
14 by the public safety director as provided by Subsection (b) the
15 money collected under Sections 521.421(g), 521.422(c), and
16 502.1745 and appropriated to the department, less any money the
17 department determines is necessary to pay costs incurred by the
18 Texas Organ, Tissue, and Eye Donor Council under Chapter 113,
19 Health and Safety Code. Money remitted to the organization must be
20 spent in accordance with the priorities established by the
21 department as recommended by the council to pay the costs of:

22 (1) maintaining, operating, and updating the
23 statewide Internet-based donor registry; and

24 (2) designing and distributing educational material
25 for prospective donors as required under this section.

26 (g) The organization selected by the public safety director
27 as provided by Subsection (b) shall submit an annual written report

1 to the public safety director that includes:

2 (1) the number of donors listed on the registry;

3 (2) changes in the number of donors listed on the
4 registry; and

5 (3) the demographic characteristics of listed donors,
6 to the extent the characteristics may be determined from
7 information provided on donor registry forms submitted by donors to
8 the organization.

9 SECTION 5. Section 521.421(g), Transportation Code, is
10 amended to read as follows:

11 (g) The department shall collect an additional fee of \$1 for
12 the issuance or renewal of a license, including a duplicate or
13 corrected license, a license issued to reflect an additional
14 authorization or a change in classification, or a license issued or
15 renewed over the Internet or by other electronic means, to pay the
16 costs of the Donor Education, Awareness, and Registry Program of
17 Texas, established under Section 521.406, and of the Texas Organ,
18 Tissue, and Eye Donor Council, established under Chapter 113 [~~fund~~
19 ~~the anatomical gift educational program established under Chapter~~
20 49], Health and Safety Code, if the person applying for, [~~or~~]
21 renewing, correcting, or changing a license opts to pay the
22 additional fee. The department shall remit fees collected under
23 this subsection to the comptroller, who shall maintain the identity
24 of the source of the fees.

25 SECTION 6. Section 521.422(c), Transportation Code, is
26 amended to read as follows:

27 (c) The department shall collect an additional fee of \$1 for

1 the issuance or renewal of a personal identification card,
2 including a duplicate or corrected personal identification card or
3 a personal identification card issued or renewed over the Internet
4 or by other electronic means, to pay the costs of the Donor
5 Education, Awareness, and Registry Program of Texas, established
6 under Section 521.406, and of the Texas Organ, Tissue, and Eye Donor
7 Council, established under Chapter 113 [~~fund the anatomical gift~~
8 ~~educational program established under Chapter 49~~], Health and
9 Safety Code, if the person applying for, ~~or~~ renewing, or
10 correcting a personal identification card opts to pay the
11 additional fee. The department shall remit fees collected under
12 this subsection to the comptroller, who shall maintain the identity
13 of the source of the fees.

14 SECTION 7. Subchapter D, Chapter 502, Transportation Code,
15 is amended by adding Section 502.1745 to read as follows:

16 Sec. 502.1745. VOLUNTARY FEE. (a) The Department of
17 Public Safety shall provide to each county assessor-collector the
18 educational materials for prospective donors provided as required
19 by the Donor Education, Awareness, and Registry Program of Texas
20 under Section 521.406. A county assessor-collector shall make the
21 educational materials available in each office authorized to
22 accept applications for registration of motor vehicles.

23 (b) A county assessor-collector shall collect an additional
24 fee of \$1 for the registration or renewal of registration of a motor
25 vehicle to pay the costs of the Donor Education, Awareness, and
26 Registry Program of Texas, established under Section 521.406, and
27 of the Texas Organ, Tissue, and Eye Donor Council, established

1 under Chapter 113, Health and Safety Code, if the person
2 registering or renewing the registration of a motor vehicle opts to
3 pay the additional fee. Notwithstanding any other provision of
4 this chapter, the county assessor-collector shall remit all fees
5 collected under this subsection to the comptroller, who shall
6 maintain the identity of the source of the fees.

7 SECTION 8. Subtitle E, Title 2, Health and Safety Code, is
8 amended by adding Chapter 113 to read as follows:

9 CHAPTER 113. TEXAS ORGAN, TISSUE, AND EYE DONOR COUNCIL

10 SUBCHAPTER A. GENERAL PROVISIONS

11 Sec. 113.001. DEFINITIONS. In this chapter:

12 (1) "Council" means the Texas Organ, Tissue, and Eye
13 Donor Council.

14 (2) "Department" means the Texas Department of Public
15 Safety.

16 (3) "Public safety director" means the public safety
17 director of the department.

18 Sec. 113.002. SUNSET PROVISION. The Texas Organ, Tissue,
19 and Eye Donor Council is subject to Chapter 325, Government Code
20 (Texas Sunset Act). Unless continued in existence as provided by
21 that chapter, the council is abolished and this chapter expires
22 September 1, 2017.

23 [Sections 113.003-113.050 reserved for expansion]

24 SUBCHAPTER B. COUNCIL

25 Sec. 113.051. COMPOSITION OF COUNCIL. (a) The council is
26 composed of:

27 (1) a representative of the Department of State Health

1 Services appointed by the commissioner of state health services;

2 (2) a representative of the department appointed by
3 the public safety director;

4 (3) a representative of the Texas Department of
5 Transportation appointed by the director of that agency;

6 (4) three professional members appointed by the
7 governor, including:

8 (A) one representative who is a transplant
9 physician or nurse licensed in this state;

10 (B) one representative of an acute care hospital
11 in this state; and

12 (C) one representative who is employed in the
13 field of organ donation education; and

14 (5) two public members appointed by the governor.

15 (b) A public member of the council must:

16 (1) be a donor, recipient, or member of a donor's
17 family; and

18 (2) be selected from a pool of members compiled from
19 the recommendations of the following nonprofit organizations in the
20 field of transplantation and organ donor education:

21 (A) the Texas Medical Association;

22 (B) the Texas Transplant Society;

23 (C) the Transplant Nurses' Association;

24 (D) the National Kidney Foundation;

25 (E) the National Minority Organ Tissue
26 Transplant Education Program; and

27 (F) the American Society of Minority Health and

1 Transplant Professionals.

2 (c) A member of the council who is a representative of an
3 agency of this state is a nonvoting member of the council.

4 (d) Appointments to the council shall be made without regard
5 to the race, color, disability, sex, religion, age, or national
6 origin of the appointee.

7 Sec. 113.052. PUBLIC MEMBERSHIP ELIGIBILITY. A person is
8 not eligible for appointment as a public member of the council if
9 the person or the person's spouse:

10 (1) is employed by or participates in the management
11 of a business entity or other organization receiving funds from the
12 council or from the department regarding a matter on which the
13 council advises the department;

14 (2) owns or controls, directly or indirectly, more
15 than a 10 percent interest in a business entity or other
16 organization receiving funds from the council or from the
17 department regarding a matter on which the council advises the
18 department; or

19 (3) uses or receives a substantial amount of tangible
20 goods, services, or funds from the council or from the department
21 regarding a matter on which the council advises the department,
22 other than compensation or reimbursement authorized by law for
23 council membership, attendance, or expenses.

24 Sec. 113.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS. (a)
25 In this section, "Texas trade association" means a nonprofit,
26 cooperative, and voluntarily joined association of business or
27 professional competitors in this state designed to assist its

1 members and its industry or profession in dealing with mutual
2 business or professional problems and in promoting their common
3 interest.

4 (b) An officer, employee, or paid consultant of a Texas
5 trade association in the field of health care may not be a member or
6 employee of the council.

7 (c) A person who is the spouse of an officer, employee, or
8 paid consultant of a Texas trade association in the field of health
9 care may not be a member of the council and may not be an employee of
10 the council who is exempt from the state's position classification
11 plan or is compensated at or above the minimum amount prescribed by
12 the General Appropriations Act for salary group A17 of the position
13 classification salary schedule.

14 (d) A person may not serve as a member of the council or act
15 as the general counsel to the council if the person is required to
16 register as a lobbyist under Chapter 305, Government Code, because
17 of the person's activities for compensation on behalf of a
18 profession related to the operation of the council.

19 Sec. 113.054. TERMS; VACANCY. (a) Council members
20 appointed by the governor serve for staggered six-year terms, with
21 the terms of two or three members, as applicable, expiring February
22 1 of each odd-numbered year.

23 (b) A council member appointed as a representative of an
24 agency serves at the will of the appointing agency.

25 (c) If a vacancy occurs, the appropriate appointing
26 authority shall appoint a person, in the same manner as the original
27 appointment, to serve for the remainder of the unexpired term.

1 (d) An appointed member may not serve more than one term
2 consecutively.

3 Sec. 113.055. PRESIDING OFFICER. The governor shall
4 designate a public member of the council as the presiding officer of
5 the council to serve in that capacity at the will of the governor.

6 Sec. 113.056. GROUNDS FOR REMOVAL. (a) It is a ground for
7 removal from the council that a member:

8 (1) does not have at the time of taking office the
9 qualifications required by Section 113.051 or 113.052;

10 (2) does not maintain during service on the council
11 the qualifications required by Section 113.051;

12 (3) is ineligible for membership under Section 113.052
13 or 113.053;

14 (4) cannot, because of illness or disability,
15 discharge the member's duties for a substantial part of the member's
16 term; or

17 (5) is absent from more than half of the regularly
18 scheduled council meetings that the member is eligible to attend
19 during a calendar year without an excuse approved by a majority vote
20 of the council.

21 (b) The validity of an action of the council is not affected
22 by the fact that it is taken when a ground for removal of a council
23 member exists.

24 (c) If the public safety director has knowledge that a
25 potential ground for removal exists, the director shall notify the
26 presiding officer of the council of the potential ground. The
27 presiding officer shall then notify the governor and the attorney

1 general that a potential ground for removal exists. If the
2 potential ground for removal involves the presiding officer, the
3 director shall notify the next highest ranking officer or most
4 senior member of the council, who shall then notify the governor and
5 the attorney general that a potential ground for removal exists.

6 Sec. 113.057. MEETINGS; QUORUM. (a) The council shall meet
7 at least twice each calendar year and at the call of the presiding
8 officer.

9 (b) The council shall adopt rules for the conduct of its
10 meetings.

11 (c) Any action taken by the council requires two-thirds of
12 the members to be present and the action must be approved by a
13 majority of the members present.

14 Sec. 113.058. COMPENSATION. (a) A member of the council
15 may not receive compensation for service on the council.

16 (b) A member shall be reimbursed for the member's actual and
17 necessary expenses for meals, lodging, transportation, and
18 incidental expenses incurred while performing council business,
19 subject to any applicable limitation on reimbursement prescribed by
20 the General Appropriations Act.

21 Sec. 113.059. TRAINING. (a) A person who is appointed to
22 and qualifies for office as a member of the council may not vote,
23 deliberate, or be counted as a member in attendance at a meeting of
24 the council until the person completes a training program that
25 complies with this section.

26 (b) The training program must provide the person with
27 information regarding:

- 1 (1) the legislation that created the council;
2 (2) the programs involving the council;
3 (3) the role and functions of the council;
4 (4) the rules of the council;
5 (5) the current budget for the council;
6 (6) the results of the most recent formal audit of the
7 council;

- 8 (7) the requirements of:
9 (A) the open meetings law, Chapter 551,
10 Government Code;
11 (B) the public information law, Chapter 552,
12 Government Code;
13 (C) the administrative procedure law, Chapter
14 2001, Government Code; and
15 (D) other laws relating to public officials,
16 including conflict-of-interest laws; and

- 17 (8) any applicable ethics policies adopted by the
18 council or the Texas Ethics Commission.

19 (c) A person appointed to the council is entitled to
20 reimbursement, as provided by the General Appropriations Act, for
21 the travel expenses incurred in attending the training program
22 regardless of whether the attendance at the program occurs before
23 or after the person qualifies for office.

24 Sec. 113.060. INFORMATION ABOUT STANDARDS OF CONDUCT. The
25 public safety director or the director's designee shall provide to
26 members of the council, as often as necessary, information
27 regarding the requirements for membership on the council under this

1 chapter, including information regarding a person's
2 responsibilities under laws relating to applicable standards of
3 conduct.

4 [Sections 113.061-113.100 reserved for expansion]

5 SUBCHAPTER C. COUNCIL POWERS AND DUTIES

6 Sec. 113.101. GENERAL DUTIES. In consultation with the
7 Department of State Health Services and organ procurement
8 organizations, the council shall:

9 (1) advise the public safety director of the need for
10 and efforts to:

11 (A) increase the number of state residents who
12 consent to organ, tissue, and eye donation;

13 (B) increase the number of transplants
14 performed; and

15 (C) decrease the difference between the number of
16 donors and the number of candidates on the waiting list;

17 (2) establish and prioritize the initiatives to be
18 implemented under the Donor Education, Awareness, and Registry
19 Program of Texas established under Section 521.406, Transportation
20 Code, under the direction of the public safety director;

21 (3) advise the public safety director on the
22 allocation of money received by the department for the council and
23 for donor education that is not used to pay the costs incurred in
24 maintaining, operating, and updating the statewide Internet-based
25 registry of organ, tissue, and eye donors or in designing and
26 distributing educational materials for prospective donors under
27 the Donor Education, Awareness, and Registry Program of Texas;

1 (4) advise the public safety director regarding the
2 creation of a donor education, awareness, and registry program
3 specifically targeted at African American and Hispanic
4 populations;

5 (5) advise the public safety director regarding ways
6 to organize faith-based initiatives within the Donor Education,
7 Awareness, and Registry Program of Texas to increase community
8 involvement and awareness of the benefits of organ, tissue, and eye
9 donation;

10 (6) advise the public safety director regarding ways
11 to coordinate and disseminate information about the Donor
12 Education, Awareness, and Registry Program of Texas to transplant
13 recipients, donors, and their families;

14 (7) advise the public safety director regarding
15 developing an interactive Internet-based educational site for the
16 Donor Education, Awareness, and Registry Program of Texas;

17 (8) encourage research to evaluate the data and
18 results of the Donor Education, Awareness, and Registry Program of
19 Texas;

20 (9) advise and assist the department on the
21 development of a program to educate health care providers and
22 attorneys in this state regarding anatomical gifts and to encourage
23 attorneys to provide organ donation information to clients seeking
24 legal advice for end-of-life decisions;

25 (10) encourage medical schools and nursing schools in
26 this state to include mandatory organ donation education in the
27 schools' curriculums; and

1 (11) encourage medical schools in this state to
2 require a physician in a neurology or neurosurgery residency
3 program to complete an advanced course in organ donation education.

4 Sec. 113.102. DIVISION OF ADVISORY AND MANAGEMENT
5 RESPONSIBILITIES. The council shall develop and implement policies
6 that clearly separate the advisory responsibilities of the council
7 and the management responsibilities of the public safety director
8 and the staff of the department.

9 Sec. 113.103. ADVISORY COMMITTEES. (a) The council may
10 establish advisory committees the council considers necessary and
11 may determine the appropriate membership for each committee.

12 (b) The council shall specify the purpose and duties of each
13 advisory committee and shall specify any product the committee is
14 required to develop.

15 (c) Members of an advisory committee serve at the will of
16 the council. The council may dissolve an advisory committee when
17 necessary.

18 Sec. 113.104. GIFTS AND GRANTS. (a) The council may
19 receive gifts and grants from any public or private source to
20 perform its duties under this chapter. The department shall accept
21 the gifts on behalf of the council and shall deposit any funds
22 accepted under this section to the credit of a special account in
23 the general revenue fund.

24 (b) The department may retain five percent of a monetary
25 gift accepted on behalf of the council to cover its costs in
26 administering this section.

27 Sec. 113.105. REPORT. Before September 1 of each

1 even-numbered year, the council shall submit a report of the
2 council's activities and recommendations to the governor,
3 lieutenant governor, speaker of the house of representatives, and
4 members of the legislature.

5 Sec. 113.106. AUDIT. The financial transactions
6 pertaining to the council are subject to audit by the state auditor
7 in accordance with Chapter 321, Government Code.

8 SECTION 9. Chapter 49, Health and Safety Code, is repealed.

9 SECTION 10. (a) Promptly after this Act takes effect, the
10 following shall appoint a representative of their agency to serve
11 as a member of the Texas Organ, Tissue, and Eye Donor Council:

12 (1) the commissioner of state health services for the
13 Department of State Health Services;

14 (2) the public safety director of the Texas Department
15 of Public Safety; and

16 (3) the director of the Texas Department of
17 Transportation.

18 (b) Promptly after this Act takes effect, the governor shall
19 appoint three professional and two public members to the Texas
20 Organ, Tissue, and Eye Donor Council. In appointing the
21 professional members, the governor shall appoint one person to a
22 term expiring February 1, 2007, one person to a term expiring
23 February 1, 2009, and one person to a term expiring February 1,
24 2011. In appointing the public members, the governor shall appoint
25 one person to a term expiring February 1, 2007, and one person to a
26 term expiring February 1, 2009.

27 SECTION 11. (a) The Texas Department of Public Safety shall

1 contract with an organization for the establishment and maintenance
2 of a registry for organ, tissue, and eye donors in accordance with
3 Section 521.406, Transportation Code, as added by this Act, and
4 ensure the organization establishes the registry not later than
5 September 1, 2006.

6 (b) The Texas Department of Public Safety must be in
7 compliance with the changes in law made by this Act to Sections
8 521.421(g) and 521.422(c), Transportation Code, related to
9 duplicate, corrected, or changed licenses or personal
10 identification cards and related to transactions conducted over the
11 Internet or by other electronic means not later than June 1, 2006.

12 SECTION 12. (a) Except as provided by Subsection (b), this
13 Act takes effect immediately if it receives a vote of two-thirds of
14 all the members elected to each house, as provided by Section 39,
15 Article III, Texas Constitution. If this Act does not receive the
16 vote necessary for immediate effect, this Act takes effect
17 September 1, 2005.

18 (b) Section 7 of this Act takes effect September 1, 2007.