

By: McClendon

H.B. No. 292

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the creation of a donor education, awareness, and
3 registry program and the establishment of an organ donor and tissue
4 council.

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

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

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

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

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

22 (A) the opportunity to indicate on the person's
23 driver's license or personal identification certificate that the
24 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 Living Bank International or other organization selected by the
6 public safety director under Section 521.406 for inclusion in the
7 statewide Internet-based registry of organ, tissue, and eye donors
8 and for release to qualified organ, tissue, and eye bank
9 organizations; and

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

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

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

27 (a) To revoke an affirmative statement of gift on a

1 person's driver's license or personal identification certificate
2 [~~made prior to September 1, 1997~~], a person must apply to the
3 department for an amendment to the license or certificate.

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

14 SECTION 3. Section 521.403, Transportation Code, is amended
15 to read as follows:

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

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

27 Sec. 521.406. DONOR EDUCATION, AWARENESS, AND REGISTRY

1 PROGRAM OF TEXAS. (a) The department shall establish the Donor
2 Education, Awareness, and Registry Program of Texas.

3 (b) The department shall enter into an agreement with the
4 Living Bank International or other organization selected by the
5 public safety director under a competitive proposal process for the
6 establishment and maintenance of a statewide Internet-based
7 registry of organ, tissue, and eye donors. Contingent on the
8 continued availability of appropriations under Subsection (f), the
9 term of the initial agreement is six years and is automatically
10 renewed for four-year terms thereafter unless terminated in a
11 written notice to the other party by the department or organization
12 not later than the 180th day before the last day of a term.

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

23 (d) The Living Bank International or other organization
24 selected by the public safety director shall:

25 (1) make information obtained from the department
26 under Subsection (c) available to qualified organ, tissue, and eye
27 bank organizations; and

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

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

12 (f) The department shall remit to the Living Bank
13 International or other organization selected by the public safety
14 director the money collected under Sections 521.421(g),
15 521.422(c), and 502.1745 and appropriated to the department, less
16 any money the department determines is necessary to pay costs
17 incurred by the Texas Organ, Tissue, and Eye Donor Council under
18 Chapter 113, Health and Safety Code. Money remitted to the Living
19 Bank International or other organization must be spent in
20 accordance with the priorities established by the department as
21 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 Living Bank International or other organization
27 selected by the public safety director shall submit an annual

1 written report 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 Living Bank International or other 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 to pay the costs of the Donor
13 Education, Awareness, and Registry Program of Texas, established
14 under Section 521.406, and of the Texas Organ, Tissue, and Eye Donor
15 Council, established under Chapter 113 [~~fund the anatomical gift~~
16 educational program established under Chapter 49], Health and
17 Safety Code, if the person applying for or renewing a license opts
18 to pay the additional fee. The department shall remit fees
19 collected under this subsection to the comptroller, who shall
20 maintain the identity of the source of the fees.

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

23 (c) The department shall collect an additional fee of \$1 for
24 the issuance or renewal of a personal identification card to pay the
25 costs of the Donor Education, Awareness, and Registry Program of
26 Texas, established under Section 521.406, and of the Texas Organ,
27 Tissue, and Eye Donor Council, established under Chapter 113 [~~fund~~

1 ~~the anatomical gift educational program established under Chapter~~
2 ~~49]~~, Health and Safety Code, if the person applying for or renewing
3 a personal identification card opts to pay the additional fee. The
4 department shall remit fees collected under this subsection to the
5 comptroller, who shall maintain the identity of the source of the
6 fees.

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

9 Sec. 502.1745. VOLUNTARY FEE. (a) The Department of
10 Public Safety shall provide to each county assessor-collector the
11 educational materials for prospective donors provided as required
12 by the Donor Education, Awareness, and Registry Program of Texas
13 under Section 521.406. A county assessor-collector shall make the
14 educational materials available in each office authorized to
15 accept applications for registration of motor vehicles.

16 (b) A county assessor-collector shall collect an additional
17 fee of \$1 for the registration or renewal of registration of a motor
18 vehicle to pay the costs of the Donor Education, Awareness, and
19 Registry Program of Texas, established under Section 521.406, and
20 of the Texas Organ, Tissue, and Eye Donor Council, established
21 under Chapter 113, Health and Safety Code, if the person
22 registering or renewing the registration of a motor vehicle opts to
23 pay the additional fee. Notwithstanding any other provision of
24 this chapter, the county assessor-collector shall remit all fees
25 collected under this subsection to the comptroller, who shall
26 maintain the identity of the source of the fees.

27 SECTION 8. Subtitle E, Title 2, Health and Safety Code, is

1 amended by adding Chapter 113 to read as follows:

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

3 SUBCHAPTER A. GENERAL PROVISIONS

4 Sec. 113.001. DEFINITIONS. In this chapter:

5 (1) "Council" means the Texas Organ, Tissue, and Eye
6 Donor Council.

7 (2) "Department" means the Texas Department of Public
8 Safety.

9 (3) "Public safety director" means the public safety
10 director of the department.

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

16 [Sections 113.003–113.050 reserved for expansion]

17 SUBCHAPTER B. COUNCIL

18 Sec. 113.051. COMPOSITION OF COUNCIL. (a) The council is
19 composed of:

20 (1) the executive commissioner of the Health and Human
21 Services Commission or the executive commissioner's designee;

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

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

26 (4) eight professional members appointed by the
27 governor, including:

1 (A) one representative of an independent
2 nonprofit tissue procurement provider in this state that is not
3 affiliated with an organ procurement organization;

4 (B) three representatives of acute care
5 hospitals in this state;

6 (C) one representative of an independent
7 nonprofit eye bank in this state that is not affiliated with an
8 organ procurement organization; and

9 (D) three representatives of organ procurement
10 organizations;

11 (5) four public members appointed by the lieutenant
12 governor; and

13 (6) three public members appointed by the speaker of
14 the house of representatives.

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, lieutenant governor, or speaker of the
21 house serve for staggered six-year terms, with the terms of five
22 members expiring February 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. The council shall:

7 (1) advise the public safety director of the need for
8 and efforts to:

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

11 (B) increase the number of transplants
12 performed; and

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

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

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

26 (4) advise the public safety director regarding the
27 creation of a donor education, awareness, and registry program

1 specifically targeted at African American and Hispanic
2 populations;

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

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

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

15 (8) encourage research to evaluate the data and
16 results of the Donor Education, Awareness, and Registry Program of
17 Texas.

18 Sec. 113.102. DIVISION OF ADVISORY AND MANAGEMENT
19 RESPONSIBILITIES. The council shall develop and implement policies
20 that clearly separate the advisory responsibilities of the council
21 and the management responsibilities of the public safety director
22 and the staff of the department.

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

26 (b) The council shall specify the purpose and duties of each
27 advisory committee and shall specify any product the committee is

1 required to develop.

2 (c) Members of an advisory committee serve at the will of
3 the council. The council may dissolve an advisory committee when
4 necessary.

5 Sec. 113.104. GIFTS AND GRANTS. (a) The council may
6 receive gifts and grants from any public or private source to
7 perform its duties under this chapter. The department shall accept
8 the gifts on behalf of the council and shall deposit any funds
9 accepted under this section to the credit of a special account in
10 the general revenue fund.

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

14 Sec. 113.105. REPORT. Before September 1 of each
15 even-numbered year, the council shall submit a report of the
16 council's activities and recommendations to the governor,
17 lieutenant governor, speaker of the house of representatives, and
18 members of the legislature.

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

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

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

26 (1) the public safety director of the Texas Department
27 of Public Safety; and

1 (2) the director of the Texas Department of
2 Transportation.

3 (b) Promptly after this Act takes effect, the governor shall
4 appoint eight members to the Texas Organ, Tissue, and Eye Donor
5 Council. In appointing the members, the governor shall appoint
6 three persons to a term expiring February 1, 2007, three persons to
7 a term expiring February 1, 2009, and two persons to a term expiring
8 February 1, 2011.

9 (c) Promptly after this Act takes effect, the lieutenant
10 governor shall appoint four members to the Texas Organ, Tissue, and
11 Eye Donor Council. In appointing the members, the lieutenant
12 governor shall appoint one person to a term expiring February 1,
13 2007, one person to a term expiring February 1, 2009, and two
14 persons to a term expiring February 1, 2011.

15 (d) Promptly after this Act takes effect, the speaker of the
16 house of representatives shall appoint three members to the Texas
17 Organ, Tissue, and Eye Donor Council. In appointing the members,
18 the speaker shall appoint one person to a term expiring February 1,
19 2007, one person to a term expiring February 1, 2009, and one person
20 to a term expiring February 1, 2011.

21 SECTION 11. This Act takes effect immediately if it
22 receives a vote of two-thirds of all the members elected to each
23 house, as provided by Section 39, Article III, Texas Constitution.
24 If this Act does not receive the vote necessary for immediate
25 effect, this Act takes effect September 1, 2005.