

1 H.247

2 Introduced by Representatives Waite-Simpson of Essex, Andrews of Rutland
3 City, Atkins of Winooski, Audette of South Burlington,
4 Bissonnette of Winooski, Cheney of Norwich, Condon of
5 Colchester, Donahue of Northfield, Donovan of Burlington,
6 Evans of Essex, Fisher of Lincoln, Frank of Underhill, French
7 of Randolph, Heath of Westford, Jerman of Essex, Lanpher of
8 Vergennes, Lenes of Shelburne, Lorber of Burlington, Macaig
9 of Williston, Martin of Wolcott, Mook of Bennington,
10 Mrowicki of Putney, Partridge of Windham, Pearce of Richford,
11 Peltz of Woodbury, Potter of Clarendon, Sharpe of Bristol,
12 Smith of Mendon, Stevens of Waterbury, Sweaney of Windsor,
13 Till of Jericho, Webb of Shelburne, Young of St. Albans City
14 and Zenie of Colchester

15 Referred to Committee on

16 Date:

17 Subject: Health; organ donation; first person consent

18 Statement of purpose: This bill proposes to honor a decedent's wishes
19 regarding organ and tissue donation, to provide an opportunity for applicants
20 for drivers' licenses to become organ and tissue donors, and to require the

1 department of motor vehicles to provide monthly information about Vermont
2 donors to the New England Organ Bank.

3 An act relating to organ and tissue donations

4 It is hereby enacted by the General Assembly of the State of Vermont:

5 Sec. 1. 18 V.S.A. chapter 109 is amended to read:

6 CHAPTER 109. UNIFORM ANATOMICAL GIFT ACT

7 § 5238. DEFINITIONS

8 As used in this chapter:

9 (1) "Anatomical gift" means a donation of all or part of a human body to
10 take effect upon or after death.

11 (2) "Anatomical gift registry" means an electronic database, as
12 established in section 5248 of this title, of persons who have consented to an
13 anatomical gift upon death.

14 ~~(2)(3)~~ "Decedent" means a deceased individual and includes a stillborn
15 infant or fetus.

16 ~~(3)(4)~~ "Document of gift" means an organ donor card, a will, or other
17 writing used to make an anatomical gift.

18 ~~(4)(5)~~ "Donee" means a hospital, physician, procurement organization
19 or an accredited medical or dental school, college or university authorized to
20 receive an anatomical gift for the purposes stated in section 5242 of this title.

1 ~~(5)~~(6) “Donor” means an individual who makes an anatomical gift of all
2 or part of his or her body.

3 ~~(6)~~(7) “Enucleator” means an individual who has successfully
4 completed a course of training acceptable to the New England Eye Bank or a
5 course of training approved by the board of medical practice to remove or
6 process eyes or parts of eyes.

7 ~~(7)~~(8) “Hospital” means a facility licensed, accredited or approved as a
8 hospital under the law of any state, or a facility operated as a hospital by the
9 United States government, a state or a subdivision of a state.

10 (9) “Next of kin” means a member of the highest priority class of
11 individuals as described in subsection 5240(a) of this title.

12 ~~(8)~~(10) “Part” means an organ, tissue, eye, bone, artery, blood, fluid or
13 other portion of a human body.

14 ~~(9)~~(11) “Physician” means an individual licensed to practice medicine or
15 osteopathic medicine under the laws of any state.

16 ~~(10)~~(12) “Procurement organization” means a person licensed,
17 accredited or approved under federal law as an organ procurement organization
18 or under the laws of any state for procurement, distribution or storage of
19 human bodies or parts.

1 ~~(11)~~(13) “State” means a state, territory or possession of the United
2 States of America, the District of Columbia or the Commonwealth of Puerto
3 Rico.

4 ~~(12)~~(14) “Technician” means an individual who is approved by the
5 board of medical practice or a procurement organization to remove or process
6 a part.

7 § 5239. MAKING, AMENDING, REVOKING, AND REFUSING TO
8 MAKE ANATOMICAL GIFTS BY AN INDIVIDUAL

9 (a) An individual who is at least 18 years of age may:

10 (1) Make an anatomical gift for any of the purposes stated in section
11 5242 of this title.

12 (2) Limit an anatomical gift to one or more of those purposes.

13 (3) Refuse to make an anatomical gift.

14 (b) ~~An anatomical gift may be made only by a document of gift signed by~~
15 ~~the donor. If the donor cannot sign, the document of gift must be signed by~~
16 ~~another individual and by two witnesses, all of whom have signed at the~~
17 ~~direction and in the presence of the donor and of each other, and state that it~~
18 ~~has been so signed.~~

19 An anatomical gift with intent to donate may be made by a document of
20 gift. In the absence of a revocation or amendment of any document of gift
21 showing an intent to donate, health care providers licensed in this state and

1 federally designated organ procurement organizations shall act in accordance
2 with the donor's intention and may take appropriate actions to effect the
3 anatomical gift.

4 (c) If a document of gift is on file with the department of motor vehicles
5 and a corresponding symbol appears on a donor's motor vehicle operator's
6 license, revocation, suspension, expiration, or cancellation of the license does
7 not invalidate the anatomical gift.

8 (d) An anatomical gift by will takes effect upon death of the testator,
9 whether or not the will is probated. If, after death, the will is declared invalid
10 for testamentary purposes, the validity of the anatomical gift is unaffected.

11 ~~(d)~~(e) A donor may amend or revoke an anatomical gift, not made by will,
12 only by one of the following methods:

13 (1) A signed statement.

14 (2) An oral statement made in the presence of two individuals.

15 (3) Any form of communication during a terminal illness or injury
16 addressed to a physician.

17 (4) The delivery of a signed statement to a specified donee to whom a
18 document of gift had been delivered.

19 ~~(e)~~(f) The donor of an anatomical gift made by will may amend or revoke
20 the gift in the manner provided for amendment or revocation of wills or as
21 provided in subsection ~~(d)~~(e) of this section.

1 ~~(f)~~(g) An anatomical gift that is not revoked by the donor before death is
2 irrevocable and does not require the consent or concurrence of any person after
3 the donor's death.

4 ~~(g)~~(h) An individual may refuse to make an anatomical gift of the
5 individual's body or part by either of the following:

6 (1) A writing signed in the same manner as a document of gift.

7 (2) Any other writing used to identify the individual as refusing to make
8 an anatomical gift. During a terminal illness or injury, the refusal may be an
9 oral statement or other form of communication addressed to a physician.

10 § 5241. REQUIRED REQUESTS; SEARCH AND NOTIFICATION

11 (a) If, at or near the time of death of a patient, there is no medical record
12 that the patient has ~~made~~ expressed an intent to make or refused to make an
13 anatomical gift, the hospital administrator or a representative designated by the
14 administrator shall discuss with those persons specified in section 5240 of this
15 title the option to make or refuse to make an anatomical gift and request the
16 making of an anatomical gift pursuant to section 5240. The request shall be
17 made with reasonable discretion and sensitivity to the circumstances of the
18 family. A request is not required if the gift is not suitable, based upon accepted
19 medical standards, for a purpose specified in section 5242 of this title. An
20 entry shall be made in the medical record of the patient, stating the name and
21 affiliation of the individual making the request, and of the name, response and

1 relationship to the patient of the person to whom the request was made. The
2 secretary of human services shall establish guidelines to implement this
3 subsection.

4 (b) For the purpose of determining whether an individual is a donor or has
5 refused to make an anatomical gift, the following persons shall make a
6 reasonable effort to inspect an individual's belongings to discover such items
7 as a motor vehicle operator's license or donor card, and to determine whether
8 the individual has an organ donor card in his or her possession:

9 (1) A law enforcement officer, fireman, paramedic or other emergency
10 rescuer finding an individual who the rescuer believes is dead or near death.

11 (2) A designated representative of the hospital, upon the admission of an
12 individual at or near the time of death, if no other source of that information is
13 immediately available.

14 (c) If a document of gift or evidence of refusal to make an anatomical gift
15 is located by the search required by subdivision (b)(1) of this section, and the
16 individual or body to whom it relates is taken to a hospital, the hospital shall be
17 notified of the contents and the document or other evidence shall be sent to the
18 hospital.

19 (d) If, at or near the time of death of a patient, a hospital knows that an
20 anatomical gift has been made pursuant to section 5240 of this title, or that a
21 patient or an individual identified as in transit to the hospital is a donor, the

1 hospital shall notify the donee if one is named and known to the hospital; if
2 not, it shall notify an appropriate procurement organization. The hospital shall
3 cooperate in the implementation of the anatomical gift.

4 * * *

5 § 5248. ANATOMICAL GIFT REGISTRY

6 (a) The department of health, in coordination with the department of motor
7 vehicles, shall develop and maintain a registry identifying persons who express
8 the intention to make an anatomical gift or have otherwise authorized a
9 document of ~~an anatomical~~ gift. The registry shall be maintained in a secured
10 database that provides authorized organ procurement organizations, tissue
11 banks, and eye banks immediate access to the registry at all times. All persons
12 entered in the registry shall have the right to revoke or amend their intent to
13 make an anatomical gift or document of gift as provided in this chapter. In no
14 event shall the data be accessed or used for any purpose unrelated to the
15 making of anatomical gifts.

16 * * *

17 Sec. 2. 18 V.S.A. § 5249 is added to read:

18 § 5249. MONTHLY DISTRIBUTION OF DATA

19 On the 15th day of each month, the commissioner of motor vehicles or
20 designee shall distribute to the New England Organ Bank a current list of the

1 persons for whom the department of motor vehicles maintains on file a
2 document of anatomical gift pursuant to subsection 603(e) of Title 23.

3 Sec. 3. 23 V.S.A. § 603 is amended to read:

4 § 603. APPLICATION FOR AND ISSUANCE OF LICENSE

5 (a) The commissioner or his or her authorized agent may license operators
6 and junior operators when an application, on a form prescribed by the
7 commissioner, signed and sworn to by the applicant for the license, is filed
8 with him or her, accompanied by the required license fee and any valid license
9 from another state or Canadian jurisdiction is surrendered. The commissioner
10 may, however, in his or her discretion, refuse to issue a license to any person
11 whenever he or she is satisfied from information given him or her by credible
12 persons, and upon investigation, that the person is mentally or physically unfit,
13 or because of his or her habits, or record as to accidents or convictions, is
14 unsafe to be trusted with the operation of motor vehicles. A person refused a
15 license, under the provisions of this subsection or section 605 of this title, shall
16 be entitled to hearing as provided in sections 105–107 of this title.

17 (b) Before issuing an operator license, junior operator license, or learner
18 permit to an applicant, the commissioner shall obtain driving record
19 information through the National Driver Register and from each state in which
20 the person has been licensed or has been issued a learner permit.

1 (c) An operator license, junior operator license, or learner permit shall not
2 be issued to an applicant whose license or learner permit is suspended, revoked
3 or canceled in any jurisdiction.

4 (d) In addition to any other requirement of law or rule, a citizen of a foreign
5 country shall produce his or her passport and visa, alien registration receipt
6 card (green card), or other proof of legal presence for inspection and copying
7 as a part of the application process for an operator license, junior operator
8 license, or learner permit. Notwithstanding any other law or rule to the
9 contrary, an operator license, junior operator license, or learner permit issued
10 to a citizen of a foreign country shall expire coincidentally with his or her
11 authorized duration of stay. A license or permit issued under this section may
12 not be issued to be valid for a period of less than 180 days.

13 (e) The application form for an operator license shall include a separate
14 form which, when executed by an applicant 18 years of age or older, shall
15 serve as a document of anatomical gift by the holder of the license. The
16 commissioner shall cause this document of anatomical gift to be recorded in
17 the department's files and shall provide a monthly list of current donors to the
18 New England Organ Bank pursuant to section 5249 of Title 18. The
19 commissioner shall adopt, by rule, a form to be used as a document of
20 anatomical gift, a symbol to appear on the operator license of each person with

- 1 a completed document of anatomical gift on file with the department, and a
- 2 process for a licensee to amend or revoke the document of anatomical gift.