

SENATE BILL NO. 266

Introduced: 01/24/83

Referred to Committee on Public Health, Welfare, & Safety:
01/24/83

Hearing: 2/7/83

Report: 02/14/83

2nd Reading: 2/16/83

3rd Reading: 02/19/83

Transmitted to House: 02/19/83

Referred to Committee on Human Services: 03/01/83

Hearing: 3/23/83

Report: 03/23/83, Be Concurred In

2nd Reading: 03/26/83, Be Concurred In

3rd Reading: 03/28/83, Be Concurred In

Returned to Senate: 03/28/83

Transmitted to Governor: 04/01/83

Signed: 04/06/83, Chapter 403

SENATE BILL NO. 266

INTRODUCED BY

*Monte Holman Norman J. Jacobson
Mark F. Lange Hager Menahan
Ramirez Hays Mazurek Borden Gek
Molan Van Velsken Bob Brown*

A BILL FOR AN ACT ENTITLED: AN ACT REVISING THE UNIFORM ANATOMICAL GIFT ACT BY BROADENING THE DEFINITION OF "BANK OR STORAGE FACILITIES"; REMOVING LIABILITY FOR PERSONS ACTING IN GOOD FAITH UNDER THE ACT; AND ESTABLISHING QUALIFICATIONS FOR PERSONS PERFORMING EYE ENUCLEATION SERVICES UNDER THE ACT; AMENDING SECTIONS 72-17-102 AND 72-17-202, MCA."

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

Section 1. Section 72-17-102, MCA, is amended to read:

"72-17-102. Definitions. (1) "Bank or storage facility" means a facility ~~licensed, accredited, or approved under the laws of any state~~ for storage of human bodies or parts thereof, operated by or under the supervision of a person who qualifies as a donee under 72-17-202.

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

(3) "Donor" means an individual who makes a gift of all or part of his body.

(4) "Hospital" means a hospital licensed, accredited, or approved under the laws of any state; includes a hospital operated by the United States government, a state, or a subdivision thereof, although not required to be licensed

under state laws.

(5) "Ophthalmologist" means a licensed physician or surgeon who specializes in the treatment or correction of diseases of the eye.

(5)(6) "Part" means organs, tissues, eyes, bones, arteries, blood, other fluids, and any other portions of a human body.

(6)(7) "Person" means an individual, corporation, government, or governmental subdivision or agency, business trust, estate, trust, partnership, or association or any other legal entity.

(7)(8) "Physician" or "surgeon" means a physician or surgeon licensed or authorized to practice under the laws of any state.

(8)(9) "State" includes any state, district, commonwealth, territory, insular possession, and any other area subject to the legislative authority of the United States of America.

(10) "Technician trained in eye enucleation" means an individual who has completed a course in eye enucleation taught by an ophthalmologist."

Section 2. Section 72-17-202, MCA, is amended to read:

"72-17-202. Persons who may become donees -- permissible purposes of gift -- ~~nonliability.~~ (1) The following persons may become donees of gifts of bodies or

INTRODUCED BILL

parts thereof for the purposes stated:

(1) any hospital, surgeon, or physician for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation;

(2) any accredited medical or dental school, college, or university for education, research, advancement of medical or dental science, or therapy;

(3) any bank or storage facility for medical or dental education, research, advancement of medical or dental science, therapy, or transplantation; or

(4) any specified individual for therapy or transplantation needed by him.

~~(2) A physician, surgeon, technician trained in eye enucleation, hospital, bank or storage facility, or donee acting in good faith compliance with the provisions of this chapter is not liable in a civil action to any claimant who alleges that the claimant's authorization for use of the body or part was required."~~

NEW SECTION. Section 3. Eye enucleations -- technicians -- qualifications. (1) Eye enucleations for purposes of anatomical gifts may be performed:

(a) by a licensed physician or surgeon; or

(b) by a technician trained in eye enucleation.

(2) A course in eye enucleation acceptable under subsection (1) must include the anatomy and physiology of

the eye, instruction in maintaining a sterile field during the enucleation procedure, and use of appropriate instruments and sterile procedures for removal and preservation of corneal tissue.

(3) Certification of satisfactory completion of a course in eye enucleation must be provided by the ophthalmologist who teaches the course. This certification qualifies a technician to perform eye enucleations for a period of 3 years from the date of completion of the course.

NEW SECTION. Section 4. Codification instruction. Section 3 is intended to be codified as an integral part of Title 72, chapter 17, and the provisions of Title 72, chapter 17, apply to section 3.

-End-

Approved by Committee
on Public Health, Welfare
& Safety

SENATE BILL NO. 266

INTRODUCED BY MARBUT, HALLIGAN, NORMAN, JACOBSON,
MARKS, FABREGA, RAMIREZ, HAGER, GAGE, MENAHAN,
MAZUREK, WINSLOW, GOODOVER, ECK, DOVER, TOME,
MOHAR, VAN VALKENBURG, B. BROWN

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parts thereof, ~~operated by or under the supervision of a~~
~~person who qualifies as a donee under 72-17-202(1)(A)~~ OR
(B).

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

(3) ~~"DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH AND~~
~~ENVIRONMENTAL SCIENCES PROVIDED FOR IN TITLE 2, CHAPTER 15.~~

PART 21.

~~(3)(4)~~ "Donor" means an individual who makes a gift of
all or part of his body.

~~(5) "EYEBANK ASSOCIATION OF AMERICA" MEANS THE~~
~~ORGANIZATION NATIONALLY RECOGNIZED BY THAT NAME WITH~~
~~HEADQUARTERS IN HOUSTON, TEXAS, THAT SURVEYS BANKS OR~~
~~STORAGE FACILITIES FOR THE STORAGE OF EYE TISSUE UPON THEIR~~
~~REQUESTS AND GRANTS MEMBERSHIP AND CERTIFICATION STATUS TO~~
~~ANY SUCH BANK OR STORAGE FACILITY THAT IT FINDS MEETS ITS~~
~~STANDARDS AND REQUIREMENTS.~~

~~(4)(6)~~ "Hospital" means a hospital licensed,
accredited, or approved under the laws of any state;
includes a hospital operated by the United States
government, a state, or a subdivision thereof, although not
required to be licensed under state laws.

~~(5)(7) "Ophthalmologist" means a licensed physician or~~
~~surgeon who specializes in the treatment or correction of~~
~~diseases of the eye.~~

~~(5)(4)(B)~~ "Part" means organs, tissues, eyes, bones,
arteries, blood, other fluids, and any other portions of a
human body.

~~(6)(3)(9)~~ "Person" means an individual, corporation,
government, or governmental subdivision or agency, business
trust, estate, trust, partnership, or association or any
other legal entity.

1 ~~(77)(81)(101)~~ "Physician" or "surgeon" means a physician
2 or surgeon licensed or authorized to practice under the laws
3 of any state.

4 ~~(8)(92)(111)~~ "State" includes any state, district,
5 commonwealth, territory, insular possession, and any other
6 area subject to the legislative authority of the United
7 States of America.

8 ~~(18)(112) "Technician trained in eye enucleation" means~~
9 ~~an individual who has SATISFACTORILY completed a course in~~
10 ~~eye enucleation taught by an ophthalmologist."~~

11 Section 2. Section 72-17-202, MCA, is amended to read:

12 "72-17-202. Persons who may become donees --
13 permissible purposes of gift ~~== nonliability.~~ (1) The
14 following persons may become donees of gifts of bodies or
15 parts thereof for the purposes stated:

16 ~~(1)(a)~~ any hospital, surgeon, or physician for medical
17 or dental education, research, advancement of medical or
18 dental science, therapy, or transplantation;

19 ~~(2)(b)~~ any accredited medical or dental school,
20 college, or university for education, research, advancement
21 of medical or dental science, or therapy;

22 ~~(3)(c)~~ any bank or storage facility LICENSED,
23 ACCREDITED, OR APPROVED UNDER THE LAWS OF ANY STATE for
24 medical or dental education, research, advancement of
25 medical or dental science, therapy, or transplantation; or

1 ~~(4)(d)~~ any specified individual for therapy or
2 transplantation needed by him.

3 ~~(21) A physician, surgeon, technician trained in eye~~
4 ~~enucleations, hospitals, bank or storage facility, or donee~~
5 ~~acting in good faith compliance with the provisions of this~~
6 ~~chapter is not liable in a civil action to any claimant who~~
7 ~~alleges that the claimant's authorization for use of the~~
8 ~~body or part was required."~~

9 NEW SECTION. Section 3. Eye enucleations --
10 technicians -- qualifications. (1) Eye enucleations for
11 purposes of anatomical gifts may be performed:

12 (a) by a licensed physician or surgeon; or
13 (b) by a technician trained in eye enucleation.

14 (2) A course in eye enucleation acceptable under
15 subsection (1) must include the anatomy and physiology of
16 the eye, instruction in maintaining a sterile field during
17 the enucleation procedure, and use of appropriate
18 instruments and sterile procedures for removal and
19 preservation of corneal tissue.

20 (3) Certification of satisfactory completion of a
21 course in eye enucleation must be provided by the
22 ophthalmologist who teaches the course. This certification
23 qualifies a technician to perform eye enucleations for a
24 period of 3 years from the date of completion of the course.

25 THERE IS A NEW MCA SECTION THAT READS:

1 Section 4. Approval of eye banks. Any bank or storage
2 facility that furnishes to the department written evidence
3 of its membership and certification, and reports and
4 recommendations for future compliance, granted by the
5 eyebank association of America, is approved for receipt and
6 storage of eye tissue for the term of such membership and
7 certification and is eligible during such term to be a donee
8 of eye tissue pursuant to 72-17-202(1)(c).

9 ~~NEW SECTION.~~ Section 5. Codification instruction.
10 ~~Section 3-its SECTIONS 3 AND 4 ARE~~ intended to be codified as
11 an integral part of Title 72, chapter 17, and the provisions
12 of Title 72, chapter 17, apply to ~~section 3 SECTIONS 3 AND~~
13 4.

-End-

SENATE BILL NO. 266

INTRODUCED BY MARBUT, HALLIGAN, NORMAN, JACOBSON,
MARKS, FABREGA, RAMIREZ, HAGER, GAGE, MENAHAN,
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parts thereof, ~~operated by or under the supervision of a~~
~~person who qualifies as a donee under 72-17-202(1)(A) or~~
~~(B)1.~~

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

~~(3) "DEPARTMENT" MEANS THE DEPARTMENT OF HEALTH AND~~
~~ENVIRONMENTAL SCIENCES PROVIDED FOR IN TITLE 2, CHAPTER 15.~~

PART 21.

~~(3)(4)~~ "Donor" means an individual who makes a gift of
all or part of his body.

~~(5) "EYEBANK ASSOCIATION OF AMERICA" MEANS THE~~
~~ORGANIZATION NATIONALLY RECOGNIZED BY THAT NAME WITH~~
~~HEADQUARTERS IN HOUSTON, TEXAS, THAT SURVEYS BANKS OR~~
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arteries, blood, other fluids, and any other portions of a
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1 ~~(7)(8)(10)~~ "Physician" or "surgeon" means a physician
2 or surgeon licensed or authorized to practice under the laws
3 of any state.

4 ~~(9)(11)~~ "State" includes any state, district,
5 commonwealth, territory, insular possession, and any other
6 area subject to the legislative authority of the United
7 States of America.

8 ~~(12)~~ "Technician trained in eye enucleation" means
9 an individual who has SATISFACTORILY completed a course in
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21 of medical or dental science, or therapy;

22 ~~(3)(c)~~ any bank or storage facility LICENSED,
23 ACCREDITED, OR APPROVED UNDER THE LAWS OF ANY STATE for
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9 NEW SECTION. Section 5. Codification instruction.
10 ~~Section-3-is~~ SECTIONS 3 AND 4 ARE intended to be codified as
11 an integral part of Title 72, chapter 17, and the provisions
12 of Title 72, chapter 17, apply to ~~section-3~~ SECTIONS 3 AND
13 4.

-End-

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21 of medical or dental science, or therapy;

22 ~~§7-1c1~~ any bank or storage facility LICENSED,
23 ACCREDITED, OR APPROVED UNDER THE LAWS OF ANY STATE for
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1 ~~§4-1d1~~ any specified individual for therapy or
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