

Joint Committee on Ways and Means

Carrier – House: Rep. Shields
Carrier – Senate: Sen. Monroe

Revenue: No revenue impact

Fiscal: Fiscal statement issued

Action: Do Pass as Amended and Be Printed A-Engrossed

Vote:

House – Yeas: D. Edwards, Galizio, Jenson, Nathanson, Nolan, Shields
– Nays: Garrard, Hanna, Morgan
– Exc:

Senate – Yeas: Bates, Carter, Devlin, Gordly, Johnson, Nelson, Schrader, Verger, Westlund
– Nays: Morse, Whitsett, Winters
– Exc:

Prepared By: Tim Walker, Legislative Fiscal Office

Meeting Date: 6/15/07

WHAT THE MEASURE DOES: This bill instructs the Oregon Department of Transportation (ODOT) to provide information about the state policy and benefits of anatomical gifts to individuals who apply for a driver's license or identification card. In addition, the bill requires an applicant to affirm that they do not want to be an anatomical donor. If an applicant does not indicate whether or not they wish to be an anatomical donor, it is assumed that they want to be a donor.

ISSUES DISCUSSED:

- Repercussions of default decision to “be a donor”
- Possibility of error
- How the request is displayed on driver's license or identification card
- What percentage of Oregonians have opted to be donors
- Cost to educate

EFFECT OF COMMITTEE AMENDMENT: The amendment directs the Office for Oregon Health Policy and Research to review the process and report on its efficacy. The results are to be delivered to the Legislative Assembly no later than January 31, 2011.

BACKGROUND: According to Donate Life Northwest, 18 people will die today awaiting an organ transplant in the United States. The number of men, women and children in the U.S. waiting for an organ transplant is quickly approaching 100 thousand and 1,900 of these individuals live in the Pacific Northwest. Thousands more await a tissue transplant. Currently in Oregon and Southwest Washington: About 344 people are waiting for a kidney transplant; about 155 people are waiting for a liver transplant; about 9 people are waiting for a pancreas transplant; about 14 people are waiting for a combined kidney/pancreas transplant; about 8 people are waiting for a heart transplant; about 2 people are waiting for a lung transplant. The following tissues and organs can be donated at the time of death: eyes, skin, bone, tendon, cartilage, heart valves, fascia, veins (tissues); and, organs: kidneys, heart, lungs, liver, pancreas, small intestine (organs).

Currently, the Oregon Division of Motor Vehicles includes a notation on the driver license, instruction permit or identification card of people 18 years of age or older who request to be anatomical donors. The notation appears as a "D" in the restriction code section of your card. The restriction will remain on the card until you request it to be removed. The restriction code will serve as a document of gift.

Model legislation efforts

According to the United Network for Organ Sharing (UNOS), today there are nearly 100,000 people on the waiting list for organ transplantation. Efforts to overcome the donor shortage date back nearly 40 years to the promulgation of

the first Uniform Anatomical Gift Act (UAGA) of 1968, which was subsequently adopted by all 50 states and the District of Columbia. That original act stipulated for the first time that an individual, upon death, could irrevocably donate his or her organs for medical purposes by signing a simple document before witnesses. This was a major departure from centuries of common-law precedent, which held that a body immediately after death became the property of the next-of-kin.

Since that time, however, new medical technologies have dramatically increased the number of transplants and the demand for organs, resulting in a serious organ shortage. A revision to the UAGA was approved in 1987 in an effort to help narrow the growing gap between supply and demand. However, the 1987 revision was only adopted in 26 states. Consequently, there is significant non-uniformity between the states. Further, neither the 1968 or the 1987 version of the UAGA comports with changes in federal law providing for an allocation system through hospitals and procurement organizations in securing organs for transplantation.

If an individual does not make a gift before death, the new UAGA provides a list of persons – in priority – who may make an anatomical gift on behalf of the deceased. The list is slightly expanded from prior versions, and now includes agents acting under a health-care power of attorney or other record, adult grandchildren, or a close friend.

The new UAGA includes strengthened language that bolsters the rule (also included in the 1987 act) that a donor's decisions whether making an anatomical gift are honored and not subject to change by others. It is now common practice for organ procurement organizations to seek affirmation of an anatomical gift from the donor's family. This can result in a reversal of a donor's donation decision. The new UAGA explicitly takes away from families the ability to amend or revoke donations made by donors during their lifetimes, affirming the irrevocable quality of a document of gift. The new revision permits an individual to sign a refusal that bars all other persons from making an anatomical gift of the individual's body or parts. A refusal generally can be made by a signed record, a will, or, under limited circumstances, orally. By permitting refusals, the UAGA recognizes the autonomy interest of an individual either to be or not to be a donor. The revision also allows for the making of anatomical gifts on donor registries, which are already in use in some states. The act encourages the creation of donor registries, whether maintained by the state or by another entity. Minimum requirements for a donor registry include making the registry electronic and accessible at all times.