(S. B. 1473)

(No. 26-2011)

(Approved March 4, 2011)

AN ACT

To add a new Section 27; renumber Sections 27 to 30 as 28 to 31, respectively; and amend subsections (c) and (a) of Sections 5 and 8, respectively, of Act No. 296 of December 25, 2002, known as the “Anatomical Donations Act of Puerto Rico,” in order to create, develop, and maintain an online organ, eye, and tissue donor registry; provide that the Department of Transportation and Public Works shall coordinate with the Human Bodies, Organs, and Tissues Disposal Board, attached to the Medical Sciences Campus, the establishment of a mechanism that allows people to make anatomical gifts as part of the process of issuing and renewing driver’s licenses and the transfer of data to the Donor Registry; provide for the information and safeguards of the Donor Registry; broaden the mechanisms provided by law to legally express willingness to become a donor; and for other purposes.

STATEMENT OF MOTIVES

According to the latest data provided by the “United Network for Organ Sharing,” approximately 104,618 people are waiting for an organ transplant. An estimated 16 people die each day waiting for an organ transplant, and every 13 minutes a person is added to the waiting list. The number of organ transplants is limited due to the shortage of donor organs. The main obstacles for donation include a low percentage of consent by families and lost opportunities in the identification and referral of potential donors to the Organ Recovery Organization, so that the family can be approached. Studies show that only 50% of families consent to donate the organs of a loved one when offered the opportunity. Moreover, studies show that knowledge of the deceased’s will to donate positively influences the family’s decision to consent to the donation.
Efforts to increase organ donations have included educating the public and professionals and training recovery coordinators, in addition to passing countless legislative initiatives at the state and federal level, namely, routine referrals, donation cards used to indicate the intention to donate, and the development of donor registries. In most U.S. states, information about the intention of becoming a donor is entered in a database, in a donor registry. Under the appropriate circumstances, hospital and/or the Organ Recovery Organization staff can access the registry’s database and determine what the will of the deceased was regarding donation and act based on the information recorded.

This initiative of establishing an online donor registry has been identified as one of the mechanisms that shall assist in the identification of potential donors, so as to increase the number of organs transplanted to candidates. This positive result is achieved because the registry is a vehicle to express the consent of the individual, while it helps in identifying potential donors by providing hospitals and/or the Organ Recovery Organization with access to the registry.

This Legislative Assembly believes that the creation of an online donor registry that allows people to express their consent to organ donation shall yield a higher number of donors and, therefore, have a positive effect on the number of transplant recipients.

**BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:**

Section 1.- A new Section 27 is hereby added to; and Sections 27 to 30 are hereby renumbered as 28 to 31, respectively, in Act No. 296 of December 25, 2002, to read as follows:

“Section 27.- DONOR REGISTRY.

(a) The Board will be responsible for creating, developing, and maintaining an online organ, eye, and tissue donor registry, in which all anatomical gifts made in Puerto Rico shall be electronically recorded, allowing organ, eye, and
tissue donors to register, as well as all organ, tissue, and eye donations submitted through the identification of the driver’s license issued by the Department of Transportation and Public Works, or other means.

(b) The Department of Transportation and Public Works, in collaboration with the Board, shall establish a vehicle to allow individuals to express their consent to be organ and tissue donors, as part of the process of issuing and renewing driver’s licenses. The Department of Transportation and Public Works shall coordinate with the person administering any donor registry established, contracted, or recognized by the Board, in order to transfer all relevant information collected by the Department related to anatomical gifts to the donor registry, in accordance with this Act.

(c) The Donor Registry shall:

1. Allow a donor or other person authorized under Section 6, to include a statement in the donor registry indicating that the donor has made or amended an anatomical gift.

2. Allow donors to amend an anatomical gift. The Department of Transportation and Public Works shall update their records to reflect said amendment and the Department shall notify said amendment to the Donor Registry for the corresponding update.

3. Be accessible to the Organ Recovery Organization to verify the existence of an entry for an anatomical gift in the registry at the donor’s time of death or near the donor’s or potential donor’s time of death.

4. Be accessible, electronically or by phone, 24 hours a day, seven (7) days a week, in order to fulfill the purposes of paragraphs (1) and (3).

5. Be accessible through a security code, in order to protect the privacy and integrity of the information stored therein.
(d) Personally identifiable information of a donor stored in the registry may not be used or disclosed without the express consent of the donor or potential donor or person who made the anatomical gift, for any purpose other than to determine, at the time of death or near the death of the donor or potential donor, whether the donor or prospective donor has made an anatomical gift.

(e) This Section does not prohibit anyone from creating or maintaining a donor registry that has not been established by a contract with the government. Any record of this nature shall comply with paragraphs (b) and (c).

Section 28.-
Section 29.-
Section 30.-
Section 31.-”

Section 2.- Subsection (c) of Section 5 of Act No. 296 of December 25, 2002, is hereby amended to read as follows:

“Section 5.- Transfer; Duties; Regulations; Registries.

The Board shall have the following duties:

(a) …

(b) …

(c) Keep a registry in which all donations of cadavers or parts thereof made in Puerto Rico shall be registered pursuant to the provisions of this Act. Each entry shall include the name, address and personal circumstances of the donor, as well as the name and address of the donee, nature of the donation, and date and place of execution of the donation document and the registration date thereof.

The Board shall also establish, develop, and maintain an electronic record of anatomical gifts for transplants as provided in Section 27 of this Act.

(d) …

(e) …”
Section 3.- Subsection (a) of Section 8 of Act No. 296 of December 25, 2002, is hereby amended to read as follows:

“Section 8.- Procedure; Release from Liability.

(a) Any person authorized to make an anatomical gift under Section 6 shall make the donation by signing an organ, eye, and tissue donor card that meets the requirements hereinafter provided; registering electronically in the organ, eye, and tissue Donor Registry, in accordance with the provisions of Section 27 of this Act or other registry of any State of the United States of America that complies with the parameters of this Act; by stating their consent to donate in their driver’s license or identification card issued by the Department of Transportation and Public Works; or through a private document or donor card signed by two witnesses or through a public document sworn before a Notary Public. The revocation, suspension, expiration, or cancelation of the driver’s license or identification card does not invalidate the donation. Provided, however, that regarding cadavers under the jurisdiction of the Commonwealth of Puerto Rico that have been subjected to an autopsy under the law, the pathologist, forensic doctor, ophthalmologist, surgeon, or his/her assistants may remove the corneas, glands, organs, tissues, or other parts to be delivered to the Board in accordance with the purposes of this Act, provided that said removal does not interfere with the autopsy or with any investigation being conducted by competent authorities, or alters the post mortem physical appearance of the cadaver. In the case of corneas, they shall be delivered free of charge to the Eye Bank of the Puerto Rican Lion’s Club.

(b) …

(c) …”

Section 4.- This Act shall take effect immediately after its approval.
CERTIFICATION

I hereby certify to the Secretary of State that the following Act No. 26-2011 (S. B. 1473) of the 5th Regular Session of the 16th Legislative Assembly of Puerto Rico:

**AN ACT** to add a new Section 27; renumber Sections 27 to 30 as 28 to 31, respectively; and amend subsections (c) and (a) of Sections 5 and 8, respectively, of Act No. 296 of December 25, 2002, known as the “Anatomical Donations Act of Puerto Rico,” in order to create, develop, and maintain an online organ, eye, and tissue donor registry; provide that the Department of Transportation and Public Works shall coordinate with the Human Bodies, Organs, and Tissues Disposal Board, attached to the Medical Sciences Campus, etc.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 15th day of January, 2015.

Juan Luis Martínez Martínez
Acting Director