

Commerce of House of Representatives by section 1(a) of Pub. L. 104-14, set out as a note preceding section 21 of Title 2, The Congress. Committee on Commerce of House of Representatives changed to Committee on Energy and Commerce of House of Representatives, and jurisdiction over matters relating to securities and exchanges and insurance generally transferred to Committee on Financial Services of House of Representatives by House Resolution No. 5, One Hundred Seventh Congress, Jan. 3, 2001.

§ 274e. Prohibition of organ purchases

(a) Prohibition

It shall be unlawful for any person to knowingly acquire, receive, or otherwise transfer any human organ for valuable consideration for use in human transplantation if the transfer affects interstate commerce. The preceding sentence does not apply with respect to human organ paired donation.

(b) Penalties

Any person who violates subsection (a) shall be fined not more than \$50,000 or imprisoned not more than five years, or both.

(c) Definitions

For purposes of subsection (a):

(1) The term “human organ” means the human (including fetal) kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, and skin or any subpart thereof and any other human organ (or any subpart thereof, including that derived from a fetus) specified by the Secretary of Health and Human Services by regulation.

(2) The term “valuable consideration” does not include the reasonable payments associated with the removal, transportation, implantation, processing, preservation, quality control, and storage of a human organ or the expenses of travel, housing, and lost wages incurred by the donor of a human organ in connection with the donation of the organ.

(3) The term “interstate commerce” has the meaning prescribed for it by section 321(b) of title 21.

(4) The term “human organ paired donation” means the donation and receipt of human organs under the following circumstances:

(A) An individual (referred to in this paragraph as the “first donor”) desires to make a living donation of a human organ specifically to a particular patient (referred to in this paragraph as the “first patient”), but such donor is biologically incompatible as a donor for such patient.

(B) A second individual (referred to in this paragraph as the “second donor”) desires to make a living donation of a human organ specifically to a second particular patient (referred to in this paragraph as the “second patient”), but such donor is biologically incompatible as a donor for such patient.

(C) Subject to subparagraph (D), the first donor is biologically compatible as a donor of a human organ for the second patient, and the second donor is biologically compatible as a donor of a human organ for the first patient.

(D) If there is any additional donor-patient pair as described in subparagraph (A) or (B),

each donor in the group of donor-patient pairs is biologically compatible as a donor of a human organ for a patient in such group.

(E) All donors and patients in the group of donor-patient pairs (whether 2 pairs or more than 2 pairs) enter into a single agreement to donate and receive such human organs, respectively, according to such biological compatibility in the group.

(F) Other than as described in subparagraph (E), no valuable consideration is knowingly acquired, received, or otherwise transferred with respect to the human organs referred to in such subparagraph.

(Pub. L. 98-507, title III, §301, Oct. 19, 1984, 98 Stat. 2346; Pub. L. 100-607, title IV, §407, Nov. 4, 1988, 102 Stat. 3116; Pub. L. 110-144, §2, Dec. 21, 2007, 121 Stat. 1813.)

Editorial Notes

CODIFICATION

Section was enacted as part of the National Organ Transplant Act, and not as part of the Public Health Service Act which comprises this chapter.

AMENDMENTS

2007—Subsec. (a). Pub. L. 110-144, §2(1), inserted at end “The preceding sentence does not apply with respect to human organ paired donation.”

Subsec. (c)(4). Pub. L. 110-144, §2(2), added par. (4).

1988—Subsec. (c)(1). Pub. L. 100-607 amended par. (1) generally. Prior to amendment, par. (1) read as follows: “The term ‘human organ’ means the human kidney, liver, heart, lung, pancreas, bone marrow, cornea, eye, bone, and skin, and any other human organ specified by the Secretary of Health and Human Services by regulation.”

Statutory Notes and Related Subsidiaries

DETERMINATION ON THE DEFINITION OF HUMAN ORGAN

Pub. L. 114-104, §4, Dec. 18, 2015, 129 Stat. 2218, provided that: “Not later than one year after the date of enactment of this Act [Dec. 18, 2015], the Secretary of Health and Human Services shall issue determinations with respect to the inclusion of peripheral blood stem cells and umbilical cord blood in the definition of human organ.”

NO IMPACT ON SOCIAL SECURITY TRUST FUND

Pub. L. 110-144, §4, Dec. 21, 2007, 121 Stat. 1814, provided that: “Nothing in this Act [see Short Title of 2007 Amendment note set out under section 201 of this title] (or an amendment made by this Act) shall be construed to alter or amend the Social Security Act (42 U.S.C. 301 et seq.) (or any regulation promulgated under that Act).”

§ 274f. Reimbursement of travel and subsistence expenses incurred toward living organ donation

(a) In general

The Secretary may award grants to States, transplant centers, qualified organ procurement organizations under section 273 of this title, or other public or private entities for the purpose of—

(1) providing for the reimbursement of travel and subsistence expenses incurred by individuals toward making living donations of their organs (in this section referred to as “donating individuals”); and