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HOUSE BILL 1563

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State of Washington                      59th Legislature                      2005 Regular Session

By Representatives Hinkle, Schindler, Sump, Miloscia, Curtis, Haler, Ericksen, Serben, Kristiansen, Ahern and Dunn

Read first time 01/28/2005. Referred to Committee on Health Care.

1            AN ACT Relating to prohibiting the sale, donation, or use of  
2 aborted fetal body parts; amending RCW 70.58.150, 68.50.610, 68.04.020,  
3 and 68.50.110; adding new sections to chapter 9.02 RCW; and declaring  
4 an emergency.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6            **Sec. 1.** RCW 70.58.150 and 1961 ex.s. c 5 s 11 are each amended to  
7 read as follows:

8            A fetal death means any product of conception that shows no  
9 evidence of life after complete expulsion or extraction from ~~((its))~~  
10 his or her mother by or as the result of any means, including the  
11 application of any abortion procedure or technique. The words  
12 "evidence of life" include breathing, beating of the heart, pulsation  
13 of the umbilical cord, or definite movement of voluntary muscles.

14            NEW SECTION. **Sec. 2.** A new section is added to chapter 9.02 RCW  
15 to read as follows:

16            The body, including the body parts, body organs, body tissue, and  
17 body fluids, of a fetus whose death is the result of the application of  
18 any abortion procedure or technique may not be sold, donated, or

1 otherwise transferred, with or without valuable consideration, for any  
2 use, but shall be disposed of as human remains by burial or cremation  
3 in accordance with the requirements of this chapter and chapter 70.58  
4 RCW.

5 **Sec. 3.** RCW 68.50.610 and 2003 c 53 s 312 are each amended to read  
6 as follows:

7 (1) A person may not knowingly, for valuable consideration,  
8 purchase or sell a part for transplantation or therapy, if removal of  
9 the part is intended to occur after the death of the decedent.

10 (2) Valuable consideration does not include reasonable payment for  
11 the removal, processing, disposal, preservation, quality control,  
12 storage, transportation, or implantation of a part.

13 (3) The donation of any part of the body, including the body parts,  
14 body organs, body tissue, and body fluids, of a fetus whose death is  
15 the result of the application of any abortion procedure or technique is  
16 prohibited under any circumstance, with or without valuable  
17 consideration, for purposes of making an anatomical gift.

18 (4) A person who violates this section is guilty of a class C  
19 felony and upon conviction is subject to a fine not exceeding fifty  
20 thousand dollars or imprisonment not exceeding five years, or both.

21 **Sec. 4.** RCW 68.04.020 and 1977 c 47 s 1 are each amended to read  
22 as follows:

23 "Human remains" or "remains" means the body of ((a)) any deceased  
24 person, and includes the body in any stage of decomposition except  
25 cremated remains. "Human remains" or "remains" includes the body of a  
26 dead fetus.

27 **Sec. 5.** RCW 68.50.110 and 1987 c 331 s 60 are each amended to read  
28 as follows:

29 Except for pathological waste as defined in RCW 70.95K.010, in  
30 cases of dissection provided for in RCW 68.50.070 and 68.50.100, and  
31 where ((a-dead body)) human remains shall rightfully be carried through  
32 or removed from the state for the purpose of lawful burial or cremation  
33 elsewhere, ((every dead body of a human being lying)) all human remains  
34 within this state, ((and)) including the remains of any dissected body,

1 after dissection, shall be decently buried, or cremated within a  
2 reasonable time after death.

3 NEW SECTION. **Sec. 6.** A new section is added to chapter 9.02 RCW  
4 to read as follows:

5 For purposes of RCW 70.58.150, 68.50.610, and sections 2 and 7 of  
6 this act, "application of any abortion technique or procedure" means  
7 the exercise or use of any force, instrument, or drug, or other means,  
8 device, or substance, intended to cause the termination of a pregnancy  
9 resulting in the death of a fetus.

10 NEW SECTION. **Sec. 7.** A new section is added to chapter 9.02 RCW  
11 to read as follows:

12 (1) Section 2 of this act is not intended, and may not be  
13 construed, to prevent a coroner, medical examiner, physician of the  
14 mother of the fetus, or prosecuting attorney from using that part of  
15 the body of a fetus whose death is the result of the application of any  
16 abortion procedure or technique that is necessary for the sole and  
17 exclusive purpose of diagnosing or determining: (a) A disease or  
18 condition or cause of death of the mother of the fetus if the abortion  
19 was performed because of such disease or condition of the mother of the  
20 fetus, or (b) cause of death of the fetus, if in either case no other  
21 reasonable means of making the diagnosis or determination is available  
22 without such use, and after the diagnosis or determination all that  
23 part of the body of the fetus used to make the diagnosis or  
24 determination that remains is disposed of as required in section 2 of  
25 this act.

26 (2) Section 2 of this act and RCW 68.50.610(3) are not intended,  
27 and may not be construed, to apply to the donation for medical research  
28 or use of any part of the body of a fetus whose death is the result of  
29 a miscarriage, stillbirth, ectopic pregnancy, sickness, disease,  
30 accident, or crime caused to the fetus or the mother by a third party  
31 without the knowledge and consent of the mother. However, the donation  
32 may only be made if a parent or guardian knows of and approves the  
33 donation for such medical research or use.

34 NEW SECTION. **Sec. 8.** If any provision of this act or its

1 application to any person or circumstance is held invalid, the  
2 remainder of the act or the application of the provision to other  
3 persons or circumstances is not affected.

4 NEW SECTION. **Sec. 9.** This act is necessary for the immediate  
5 preservation of the public peace, health, morals, or safety, or support  
6 of the state government and its existing public institutions, and takes  
7 effect immediately.

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