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**HOUSE BILL 1243**

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**State of Washington 65th Legislature 2017 Regular Session**

**By** Representatives Klippert, Taylor, Shea, Van Werven, Rodne, Haler, McCaslin, Kraft, Hargrove, Holy, Koster, MacEwen, Muri, and Young

AN ACT Relating to prohibiting the sale, donation, or use of aborted fetal body parts; amending RCW 70.58.150, 68.64.150, 68.04.020, and 68.50.110; adding new sections to chapter 9.02 RCW; and declaring an emergency.

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

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

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

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

The body, including the body parts, body organs, body tissue, and body fluids, of a fetus whose death is the result of the application of any abortion procedure or technique may not be sold, donated, or otherwise transferred, with or without valuable consideration, for any use, but shall be disposed of as human remains by burial or cremation in accordance with the requirements of this chapter and chapter 70.58 RCW.

**Sec.**  RCW 68.64.150 and 2008 c 139 s 16 are each amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, a person who, for valuable consideration, knowingly purchases or sells a part for transplantation or therapy if removal of a part from an individual is intended to occur after the individual's death is guilty of a class C felony under RCW 9A.20.010.

(2) A person may charge a reasonable amount for the removal, processing, preservation, quality control, storage, transportation, implantation, or disposal of a part.

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

**Sec.**  RCW 68.04.020 and 2005 c 365 s 27 are each amended to read as follows:

"Human remains" or "remains" means the body of ((~~a~~)) any deceased person, includes the body in any stage of decomposition, and includes cremated human remains, and includes the body of a dead fetus.

**Sec.**  RCW 68.50.110 and 2005 c 365 s 138 are each amended to read as follows:

Except for pathological waste as defined in RCW 70.95K.010, in cases of dissection provided for in RCW 68.50.070 and 68.50.100, and where human remains shall rightfully be carried through or removed from the state for the purpose of lawful burial or cremation elsewhere, all human remains ((~~lying~~)) within this state, ((~~and~~)) including the remains of any dissected body, after dissection, shall be decently buried, or cremated within a reasonable time after death.

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

For purposes of RCW 70.58.150, 68.64.150, and sections 2 and 7 of this act, "application of any abortion technique or procedure" means the exercise or use of any force, instrument, or drug, or other means, device, or substance, intended to cause the termination of a pregnancy resulting in the death of a fetus.

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

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

(2) Section 2 of this act and RCW 68.64.150(3) are not intended, and may not be construed, to apply to the donation for medical research or use of any part of the body of a fetus whose death is the result of a miscarriage, stillbirth, ectopic pregnancy, sickness, disease, accident, or crime caused to the fetus or the mother by a third party without the knowledge and consent of the mother. However, the donation may only be made if a parent or guardian knows of and approves the donation for such medical research or use.

NEW SECTION. **Sec.**  If any provision of this act or its application to any person or circumstance is held invalid, the remainder of the act or the application of the provision to other persons or circumstances is not affected.

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

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