

SENATE FILE NO. SF0086

Revised Uniform Anatomical Gift Act.

Sponsored by: Senator(s) Perkins and Peterson and Representative(s) Millin and Stubson

A BILL

for

1 AN ACT relating to anatomical gifts; repealing the Uniform
2 Anatomical Gift Act and adopting the Revised Uniform
3 Anatomical Gift Act; making conforming amendments;
4 providing for the effectiveness of prior gifts; and
5 providing for an effective date.

6

7 *Be It Enacted by the Legislature of the State of Wyoming:*

8

9 **Section 1.** W.S. 35-5-201 through 35-5-225 are created
10 to read:

11

12

ARTICLE 2

13

REVISED UNIFORM ANATOMICAL GIFT ACT

14

15 **35-5-201. Short title.**

16

1 This act may be cited as the "Revised Uniform Anatomical
2 Gift Act".

3

4 **35-5-202. Definitions.**

5

6 (a) As used in this act:

7

8 (i) "Agent" means an individual:

9

10 (A) Authorized to make health-care
11 decisions on the principal's behalf by a power of attorney
12 for health care; or

13

14 (B) Expressly authorized to make an
15 anatomical gift on the principal's behalf by any other
16 record signed by the principal.

17

18 (ii) "Anatomical gift" means a donation of all
19 or part of a human body to take effect after the donor's
20 death for the purpose of transplantation, therapy, research
21 or education;

22

23 (iii) "Decedent" means a deceased individual
24 whose body or part is or may be the source of an anatomical

1 gift. The term includes a stillborn infant and, subject to
2 restrictions imposed by law other than this act, a fetus;

3

4 (iv) "Department" means the department of
5 employment;

6

7 (v) "Disinterested witness" means a witness
8 other than the spouse, child, parent, sibling, grandchild,
9 grandparent or guardian of the individual who makes,
10 amends, revokes or refuses to make an anatomical gift, or
11 another adult who exhibited special care and concern for
12 the individual. The term does not include a person to
13 which an anatomical gift could pass under W.S. 35-5-211;

14

15 (vi) "Document of gift" means a donor card or
16 other record used to make an anatomical gift. The term
17 includes a statement or symbol on a driver's license,
18 identification card or donor registry;

19

20 (vii) "Donor" means an individual whose body or
21 part is the subject of an anatomical gift;

22

1 (viii) "Donor registry" means a database that
2 contains records of anatomical gifts and amendments to or
3 revocations of anatomical gifts;

4

5 (ix) "Driver's license" means a license or
6 permit issued by the department to operate a vehicle,
7 whether or not conditions are attached to the license or
8 permit;

9

10 (x) "Eye bank" means a person who is licensed,
11 accredited or regulated under federal or state law to
12 engage in the recovery, screening, testing, processing,
13 storage or distribution of human eyes or portions of human
14 eyes;

15

16 (xi) "Guardian" means a person appointed by a
17 court to make decisions regarding the support, care,
18 education, health or welfare of an individual. The term
19 does not include a guardian ad litem;

20

21 (xii) "Hospital" means a facility licensed as a
22 hospital under the law of any state or a facility operated
23 as a hospital by the United States, a state or a
24 subdivision of a state;

1

2 (xiii) "Identification card" means an
3 identification card issued by the department;

4

5 (xiv) "Know" means to have actual knowledge;

6

7 (xv) "Organ procurement organization" means a
8 person designated by the secretary of the United States
9 department of health and human services as an organ
10 procurement organization;

11

12 (xvi) "Parent" means a parent whose parental
13 rights have not been terminated;

14

15 (xvii) "Part" means an organ, an eye or tissue
16 of a human being. The term does not include the whole
17 body;

18

19 (xviii) "Physician" means an individual
20 authorized to practice medicine or osteopathy under the law
21 of any state;

22

23 (xix) "Procurement organization" means an eye
24 bank, organ procurement organization or tissue bank;

1

2 (xx) "Prospective donor" means an individual who
3 is dead or near death and has been determined by a
4 procurement organization to have a part that could be
5 medically suitable for transplantation, therapy, research
6 or education. The term does not include an individual who
7 has made a refusal;

8

9 (xxi) "Reasonably available" means able to be
10 contacted by a procurement organization without undue
11 effort and willing and able to act in a timely manner
12 consistent with existing medical criteria necessary for the
13 making of an anatomical gift;

14

15 (xxii) "Recipient" means an individual into
16 whose body a decedent's part has been or is intended to be
17 transplanted;

18

19 (xxiii) "Record" means information that is
20 inscribed on a tangible medium or that is stored in an
21 electronic or other medium and is retrievable in
22 perceivable form;

23

1 (xxiv) "Refusal" means a record created under
2 W.S. 35-5-207 that expressly states an intent to bar other
3 persons from making an anatomical gift of an individual's
4 body or part;

5

6 (xxv) "Sign" means, with the present intent to
7 authenticate or adopt a record:

8

9 (A) To execute or adopt a tangible symbol;
10 or

11

12 (B) To attach to or logically associate
13 with the record an electronic symbol, sound or process.

14

15 (xxvi) "State" means a state of the United
16 States, the District of Columbia, Puerto Rico, the United
17 States Virgin Islands or any territory or insular
18 possession subject to the jurisdiction of the United
19 States;

20

21 (xxvii) "Technician" means an individual
22 determined to be qualified to remove or process parts by an
23 appropriate organization that is licensed, accredited or

1 regulated under federal or state law. The term includes an
2 enucleator;

3

4 (xxviii) "Tissue" means a portion of the human
5 body other than an organ or an eye. The term does not
6 include blood unless the blood is donated for the purpose
7 of research or education;

8

9 (xxix) "Tissue bank" means a person that is
10 licensed, accredited or regulated under federal or state
11 law to engage in the recovery, screening, testing,
12 processing, storage or distribution of tissue;

13

14 (xxx) "Transplant hospital" means a hospital
15 that furnishes organ transplants and other medical and
16 surgical specialty services required for the care of
17 transplant patients;

18

19 (xxxi) "This act" means W.S. 35-5-201 through
20 35-5-225.

21

22 **35-5-203. Applicability.**

23

1 This act applies to an anatomical gift or amendment to,
2 revocation of, or refusal to make an anatomical gift,
3 whenever made. All anatomical gifts deemed to be effective
4 under W.S. 35-5-101 through 35-5-119, prior to its repeal
5 by this enactment, shall continue to be deemed and regarded
6 to be effective after the effective date of this act.

7

8 **35-5-204. Who may make anatomical gift before donor's**
9 **death.**

10

11 (a) Subject to W.S. 35-5-208, an anatomical gift of a
12 donor's body or part may be made during the life of the
13 donor for the purpose of transplantation, therapy, research
14 or education in the manner provided in W.S. 35-5-205 by:

15

16 (i) The donor, if the donor is an adult or if
17 the donor is a minor and is:

18

19 (A) Emancipated; or

20

21 (B) Authorized under state law to apply for
22 a driver's license because the donor is at least sixteen
23 (16) years of age.

24

1 (ii) An agent of the donor, unless the power of
2 attorney for health care or other record prohibits the
3 agent from making an anatomical gift;

4

5 (iii) A parent of the donor, if the donor is an
6 unemancipated minor to whom subparagraph (i)(B) of this
7 subsection does not apply; or

8

9 (iv) The donor's guardian. If the donor is an
10 unemancipated minor to whom subparagraph (i)(B) of this
11 subsection does not apply.

12

13 **35-5-205. Manner of making anatomical gift before**
14 **donor's death.**

15

16 (a) A donor may make an anatomical gift:

17

18 (i) By authorizing a statement or symbol
19 indicating that the donor has made an anatomical gift to be
20 imprinted on the donor's driver's license or identification
21 card;

22

23 (ii) In a will;

24

1 (iii) During a terminal illness or injury of the
2 donor, by any form of communication addressed to at least
3 two (2) adults, at least one (1) of whom is a disinterested
4 witness; or

5

6 (iv) As provided in subsection (b) of this
7 section.

8

9 (b) A donor or other person authorized to make an
10 anatomical gift under W.S. 35-5-204 may make a gift by a
11 donor card or other record signed by the donor or other
12 person making the gift or by authorizing that a statement
13 or symbol indicating that the donor has made an anatomical
14 gift be included on a donor registry. If the donor or
15 other person is physically unable to sign a record, the
16 record may be signed by another individual at the direction
17 of the donor or other person and shall:

18

19 (i) Be witnessed by at least two (2) adults, at
20 least one (1) of whom is a disinterested witness, who have
21 signed at the request of the donor or the other person; and

22

23 (ii) State that it has been signed and witnessed
24 as provided in paragraph (i) of this subsection.

1

2 (c) Revocation, suspension, expiration or
3 cancellation of a driver's license or identification card
4 upon which an anatomical gift is indicated does not
5 invalidate the gift.

6

7 (d) An anatomical gift made by will takes effect upon
8 the donor's death whether or not the will is probated.
9 Invalidation of the will after the donor's death does not
10 invalidate the gift.

11

12 **35-5-206. Amending or revoking anatomical gift before**
13 **donor's death.**

14

15 (a) Subject to W.S. 35-5-208, a donor or other person
16 authorized to make an anatomical gift under W.S. 35-5-204
17 may amend or revoke an anatomical gift by:

18

19 (i) A record signed by:

20

21 (A) The donor;

22

23 (B) The other person; or

24

1 (C) Subject to subsection (b) of this
2 section, another individual acting at the direction of the
3 donor or the other person if the donor or other person is
4 physically unable to sign.

5

6 (ii) A later-executed document of gift that
7 amends or revokes a previous anatomical gift or portion of
8 an anatomical gift, either expressly or by inconsistency;
9 or

10

11 (b) A record signed pursuant to subparagraph
12 (a)(ii)(C) of this section shall:

13

14 (i) Be witnessed by at least two (2) adults, at
15 least one (1) of whom is a disinterested witness, who have
16 signed at the request of the donor or the other person; and

17

18 (ii) State that it has been signed and witnessed
19 as provided in paragraph (i) of this subsection.

20

21 (c) Subject to W.S. 35-5-208, a donor or other person
22 authorized to make an anatomical gift under W.S. 35-5-204
23 may revoke an anatomical gift by the destruction or
24 cancellation of the document of gift, or the portion of the

1 document of gift used to make the gift, with the intent to
2 revoke the gift.

3

4 (d) A donor may amend or revoke an anatomical gift
5 that was not made in a will by any form of communication
6 during a terminal illness or injury addressed to at least
7 two (2) adults, at least one (1) of whom is a disinterested
8 witness.

9

10 (e) A donor who makes an anatomical gift in a will
11 may amend or revoke the gift in the manner provided for
12 amendment or revocation of wills or as provided in
13 subsection (a) of this section.

14

15 **35-5-207. Refusal to make anatomical gift; effect of**
16 **refusal.**

17

18 (a) An individual may refuse to make an anatomical
19 gift of the individual's body or part by:

20

21 (i) A record signed by:

22

23 (A) The individual; or

24

1 (B) Subject to subsection (b) of this
2 section, another individual acting at the direction of the
3 individual if the individual is physically unable to sign.

4
5 (ii) The individual's will, whether or not the
6 will is admitted to probate or invalidated after the
7 individual's death; or

8
9 (iii) Any form of communication made by the
10 individual during the individual's terminal illness or
11 injury addressed to at least two (2) adults, at least one
12 (1) of whom is a disinterested witness.

13
14 (b) A record signed pursuant to subparagraph
15 (a)(i)(B) of this section shall:

16
17 (i) Be witnessed by at least two (2) adults, at
18 least one (1) of whom is a disinterested witness, who have
19 signed at the request of the individual; and

20
21 (ii) State that it has been signed and witnessed
22 as provided in paragraph (i) of this subsection.

23

1 (c) An individual who has made a refusal may amend or
2 revoke the refusal:

3

4 (i) In the manner provided in subsection (a) of
5 this section for making a refusal;

6

7 (ii) By subsequently making an anatomical gift
8 pursuant to W.S. 35-5-205 that is inconsistent with the
9 refusal; or

10

11 (iii) By destroying or cancelling the record
12 evidencing the refusal, or the portion of the record used
13 to make the refusal, with the intent to revoke the refusal.

14

15 (d) Except as otherwise provided in W.S. 35-5-208(h),
16 in the absence of an express, contrary indication by the
17 individual set forth in the refusal, an individual's
18 unrevoked refusal to make an anatomical gift of the
19 individual's body or part bars all other persons from
20 making an anatomical gift of the individual's body or part.

21

22 **35-5-208. Preclusive effect of anatomical gift,**
23 **amendment or revocation.**

24

1 (a) Except as otherwise provided in subsection (g)
2 and subject to subsection (f) of this section, in the
3 absence of an express, contrary indication by the donor, a
4 person other than the donor is barred from making, amending
5 or revoking an anatomical gift of a donor's body or part if
6 the donor made an anatomical gift of the donor's body or
7 part under W.S. 35-5-205 or an amendment to an anatomical
8 gift of the donor's body or part under W.S. 35-5-206.

9

10 (b) A donor's revocation of an anatomical gift of the
11 donor's body or part under W.S. 35-5-206 is not a refusal
12 and does not bar another person specified in W.S. 35-5-204
13 or 35-5-209 from making an anatomical gift of the donor's
14 body or part under W.S. 35-5-205 or 35-5-210.

15

16 (c) If a person other than the donor makes an
17 unrevoked anatomical gift of the donor's body or part under
18 W.S. 35-5-205 or an amendment to an anatomical gift of the
19 donor's body or part under W.S. 35-5-206, another person
20 may not make, amend or revoke the gift of the donor's body
21 or part under W.S. 35-5-210.

22

23 (d) A revocation of an anatomical gift of a donor's
24 body or part under W.S. 35-5-206 by a person other than the

1 donor does not bar another person from making an anatomical
2 gift of the body or part under W.S. 35-5-205 or 35-5-210.

3

4 (e) In the absence of an express, contrary indication
5 by the donor or other person authorized to make an
6 anatomical gift under W.S. 35-5-204, an anatomical gift of
7 a part is neither a refusal to give another part nor a
8 limitation on the making of an anatomical gift of another
9 part at a later time by the donor or another person.

10

11 (f) In the absence of an express, contrary indication
12 by the donor or other person authorized to make an
13 anatomical gift under W.S. 35-5-204, an anatomical gift of
14 a part for one (1) or more of the purposes set forth in
15 W.S. 35-5-204 is not a limitation on the making of an
16 anatomical gift of the part for any of the other purposes
17 by the donor or any other person under W.S. 35-5-205 or
18 35-5-210.

19

20 (g) If a donor who is an unemancipated minor dies, a
21 parent of the donor who is reasonably available may revoke
22 or amend an anatomical gift of the donor's body or part.

23

1 (h) If an unemancipated minor who signed a refusal
2 dies, a parent of the minor who is reasonably available may
3 revoke the minor's refusal.

4

5 **35-5-209. Who may make anatomical gift of decedent's**
6 **body or part.**

7

8 (a) Subject to subsections (b) and (c) of this
9 section and unless barred by W.S. 35-5-207 or 35-5-208, an
10 anatomical gift of a decedent's body or part for purpose of
11 transplantation, therapy, research or education may be made
12 by any member of the following classes of persons who is
13 reasonably available, in the order of priority listed:

14

15 (i) An agent of the decedent at the time of
16 death who could have made an anatomical gift under W.S.
17 35-5-204(a)(ii) immediately before the decedent's death;

18

19 (ii) The spouse of the decedent;

20

21 (iii) Adult children of the decedent;

22

23 (iv) Parents of the decedent;

24

1 (v) Adult siblings of the decedent;

2

3 (vi) Adult grandchildren of the decedent;

4

5 (vii) Grandparents of the decedent;

6

7 (viii) An adult who exhibited special care and
8 concern for the decedent;

9

10 (ix) The persons who were acting as the
11 guardians of the person of the decedent at the time of
12 death; and

13

14 (x) Any other person having the authority to
15 dispose of the decedent's body.

16

17 (b) If there is more than one (1) member of a class
18 listed in paragraph (i), (iii), (iv), (v), (vi), (vii) or
19 (ix) of subsection (a) of this section entitled to make an
20 anatomical gift, an anatomical gift may be made by a member
21 of the class unless that member or a person to which the
22 gift may pass under W.S. 35-5-211 knows of an
23 objection by another member of the class. If an objection

1 is known, the gift may be made only by a majority of the
2 members of the class who are reasonably available.

3

4 (c) A person may not make an anatomical gift if, at
5 the time of the decedent's death, a person in a prior class
6 under subsection (a) of this section is reasonably
7 available to make or to object to the making of an
8 anatomical gift.

9

10 **35-5-210. Manner of making, amending or revoking**
11 **anatomical gift of decedent's body or part.**

12

13 (a) A person authorized to make an anatomical gift
14 under W.S. 35-5-209 may make an anatomical gift by a
15 document of gift signed by the person making the gift or by
16 that person's oral communication that is electronically
17 recorded or is contemporaneously reduced to a record and
18 signed by the individual receiving the oral communication.

19

20 (b) Subject to subsection (c) of this section, an
21 anatomical gift by a person authorized under W.S. 35-5-209
22 may be amended or revoked orally or in a record by any
23 member of a prior class who is reasonably available. If
24 more than one (1) member of the prior class is reasonably

1 available, the gift made by a person authorized under W.S.
2 35-5-209 may be:

3

4 (i) Amended only if a majority of the reasonably
5 available members agree to the amending of the gift; or

6

7 (ii) Revoked only if a majority of the
8 reasonably available members agree to the revocation of the
9 gift or if they are equally divided as to whether to revoke
10 the gift.

11

12 (c) A revocation under subsection (b) of this section
13 is effective only if, before an incision has been made to
14 remove a part from the donor's body or before invasive
15 procedures have begun to prepare the recipient, the
16 procurement organization, transplant hospital or physician
17 or technician knows of the revocation.

18

19 **35-5-211. Persons that may receive anatomical gift;**
20 **purpose of anatomical gift.**

21

22 (a) An anatomical gift may be made to the following
23 persons named in the document of gift:

24

1 (i) For purposes of research or education, a
2 hospital, accredited medical school, dental school, college
3 or university, organ procurement organization or any
4 appropriate person;

5

6 (ii) Subject to subsection (b) of this section,
7 an individual designated by the person making the
8 anatomical gift if the individual is the recipient of the
9 part;

10

11 (iii) A named eye bank or tissue bank.

12

13 (b) If an anatomical gift to an individual under
14 paragraph (a)(ii) of this section cannot be transplanted
15 into the individual, the part passes in accordance with
16 subsection (g) of this section in the absence of an
17 express, contrary indication by the person making the
18 anatomical gift.

19

20 (c) If an anatomical gift of one (1) or more specific
21 parts or of all parts is made in a document of gift that
22 does not name a person described in subsection (a) of this
23 section but identifies the purpose for which an anatomical
24 gift may be used, the following rules apply:

1

2 (i) If the part is an eye and the gift is for
3 the purpose of transplantation or therapy, the gift passes
4 to the appropriate eye bank;

5

6 (ii) If the part is tissue and the gift is for
7 the purpose of transplantation or therapy, the gift passes
8 to the appropriate tissue bank;

9

10 (iii) If the part is an organ and the gift is
11 for the purpose of transplantation or therapy, the gift
12 passes to the appropriate organ procurement organization as
13 custodian of the organ;

14

15 (iv) If the part is an organ, an eye or tissue
16 and the gift is for the purpose of research or education,
17 the gift passes to the appropriate procurement
18 organization.

19

20 (d) For the purpose of subsection (c) of this
21 section, if there is more than one (1) purpose of an
22 anatomical gift set forth in the document of gift but the
23 purposes are not set forth in any priority, the gift shall
24 be used for transplantation or therapy, if suitable. If

1 the gift cannot be used for transplantation or therapy, the
2 gift may be used for research or education.

3

4 (e) If an anatomical gift of one (1) or more specific
5 parts is made in a document of gift that does not name a
6 person described in subsection (a) of this section and does
7 not identify the purpose of the gift, the gift may be used
8 only for transplantation or therapy, and the gift passes in
9 accordance with subsection (g) of this section.

10

11 (f) If a document of gift specifies only a general
12 intent to make an anatomical gift by words such as "donor,"
13 "organ donor," or "body donor," or by a symbol or statement
14 of similar import, the gift may be used only for
15 transplantation or therapy, and the gift passes in
16 accordance with subsection (g) of this section.

17

18 (g) For purposes of subsections (b), (e) and (f) of
19 this section, the following rules apply:

20

21 (i) If the part is an eye, the gift passes to
22 the appropriate eye bank;

23

1 (ii) If the part is tissue, the gift passes to
2 the appropriate tissue bank;

3

4 (iii) If the part is an organ, the gift passes
5 to the appropriate organ procurement organization as
6 custodian of the organ.

7

8 (h) An anatomical gift of an organ for
9 transplantation or therapy, other than an anatomical gift
10 under paragraph (a)(ii) of this section, passes to the
11 organ procurement organization as custodian of the organ.

12

13 (j) If an anatomical gift does not pass pursuant to
14 subsections (a) through (h) of this section or the
15 decedent's body or part is not used for transplantation,
16 therapy, research or education, custody of the body or part
17 passes to the person under obligation to dispose of the
18 body or part.

19

20 (k) A person may not accept an anatomical gift if the
21 person knows that the gift was not effectively made under
22 W.S. 35-5-205 or 35-5-210 or if the person knows that the
23 decedent made a refusal under W.S. 35-5-207 that was not
24 revoked. For purposes of this subsection, if a person

1 knows that an anatomical gift was made on a document of
2 gift, the person is deemed to know of any amendment or
3 revocation of the gift or any refusal to make an anatomical
4 gift on the same document of gift.

5

6 (m) Except as otherwise provided in paragraph (a)(ii)
7 of this section, nothing in this act affects the allocation
8 of organs for transplantation or therapy.

9

10 **35-5-212. Delivery of document of gift not required;**
11 **right to examine.**

12

13 (a) A document of gift need not be delivered during
14 the donor's lifetime to be effective.

15

16 (b) Upon or after an individual's death, a person in
17 possession of a document of gift or a refusal to make an
18 anatomical gift with respect to the individual shall allow
19 examination and copying of the document of gift or refusal
20 by a person authorized to make or object to the making of
21 an anatomical gift with respect to the individual or by a
22 person to which the gift could pass under W.S. 35-5-211.

23

1 **35-5-213. Rights and duties of procurement**
2 **organization and others.**

3

4 (a) When a hospital refers an individual at or near
5 death to a procurement organization, the organization shall
6 make a reasonable search of the records of the department
7 and any donor registry that it knows exists for the
8 geographical area in which the individual resides to
9 ascertain whether the individual has made an anatomical
10 gift.

11

12 (b) A procurement organization shall be allowed
13 reasonable access to information in the records of the
14 department to ascertain whether an individual at or near
15 death is a donor.

16

17 (c) When a hospital refers an individual at or near
18 death to a procurement organization, the organization may
19 conduct any reasonable examination necessary to ensure the
20 medical suitability of a part that is or could be the
21 subject of an anatomical gift for transplantation, therapy,
22 research or education from a donor or a prospective donor.
23 During the examination period, measures necessary to ensure
24 the medical suitability of the part may not be withdrawn

1 unless the hospital or procurement organization knows that
2 the individual expressed a contrary intent.

3

4 (d) Unless prohibited by law other than this act, at
5 any time after a donor's death, the person to whom a part
6 passes under W.S. 35-5-211 may conduct any reasonable
7 examination necessary to ensure the medical suitability of
8 the body or part for its intended purpose.

9

10 (e) Unless prohibited by law other than this act, an
11 examination under subsection (c) or (d) of this section may
12 include an examination of all medical and dental records of
13 the donor or prospective donor.

14

15 (f) Upon the death of a minor who was a donor or had
16 signed a refusal, unless a procurement organization knows
17 the minor is emancipated, the procurement organization
18 shall conduct a reasonable search for the parents of the
19 minor and provide the parents with an opportunity to revoke
20 or amend the anatomical gift or revoke the refusal.

21

22 (g) Upon referral by a hospital under subsection (a)
23 of this section, a procurement organization shall make a
24 reasonable search for any person listed in W.S. 35-5-209

1 having priority to make an anatomical gift on behalf of a
2 prospective donor. If a procurement organization receives
3 information that an anatomical gift to any other person was
4 made, amended or revoked, it shall promptly advise the
5 other person of all relevant information.

6

7 (h) Subject to W.S. 35-5-211(j) and 35-5-223, the
8 rights of the person to which a part passes under W.S.
9 35-5-211 are superior to the rights of all others with
10 respect to the part. The person may accept or reject an
11 anatomical gift in whole or in part. Subject to the terms
12 of the document of gift and this act, a person who accepts
13 an anatomical gift of an entire body may allow embalming,
14 burial or cremation, and use of remains in a funeral
15 service. If the gift is of a part, the person to which the
16 part passes under W.S. 35-5-211, upon the death of the
17 donor and before embalming, burial or cremation, shall
18 cause the part to be removed without unnecessary
19 mutilation.

20

21 (j) Neither the physician who attends the decedent at
22 death nor the physician who determines the time of the
23 decedent's death may participate in the procedures for
24 removing or transplanting a part from the decedent.

1

2 (k) A physician or technician may remove a donated
3 part from the body of a donor that the physician or
4 technician is qualified to remove.

5

6 **35-5-214. Coordination of procurement and use.**

7

8 Each hospital in this state shall enter into agreements or
9 affiliations with procurement organizations for
10 coordination of procurement and use of anatomical gifts.

11

12 **35-5-215. Sale or purchase of parts prohibited.**

13

14 (a) Except as otherwise provided in subsection (b) of
15 this section, a person who for valuable consideration,
16 knowingly purchases or sells a part for transplantation or
17 therapy if removal of a part from an individual is intended
18 to occur after the individual's death commits a felony
19 punishable by imprisonment for not more than five (5)
20 years, a fine of not more than fifty thousand dollars
21 (\$50,000.00) or both.

22

23 (b) A person may charge a reasonable amount for the
24 removal, processing, preservation, quality control,

1 storage, transportation, implantation or disposal of a
2 part.

3

4 **35-5-216. Other prohibited acts.**

5

6 A person who, in order to obtain a financial gain,
7 intentionally falsifies, forges, conceals, defaces or
8 obliterates a document of gift, an amendment or revocation
9 of a document of gift, or a refusal commits a misdemeanor
10 punishable by imprisonment for not more than one (1) year,
11 a fine of not more than one thousand dollars (\$1,000.00) or
12 both.

13

14 **35-5-217. Immunity.**

15

16 (a) A person who acts in accordance with this act or
17 with the applicable anatomical gift law of another state,
18 or attempts in good faith to do so, is not liable for the
19 act in a civil action, criminal prosecution or
20 administrative proceeding.

21

22 (b) Neither the person making an anatomical gift nor
23 the donor's estate is liable for any injury or damage that
24 results from the making or use of the gift.

1

2 (c) In determining whether an anatomical gift has
3 been made, amended or revoked under this act, a person may
4 rely upon representations of an individual listed in W.S.
5 35-5-209(a)(ii), (iii), (iv), (v), (vi), (vii) or (viii)
6 relating to the individual's relationship to the donor or
7 prospective donor unless the person knows that the
8 representation is untrue.

9

10 **35-5-218. Law governing validity; choice of law as to**
11 **execution of document of gift; presumption of validity.**

12

13 (a) A document of gift is valid if executed in
14 accordance with:

15

16 (i) This act;

17

18 (ii) The laws of the state or country where it
19 was executed; or

20

21 (iii) The laws of the state or country where the
22 person making the anatomical gift was domiciled, has a
23 place of residence or was a national at the time the
24 document of gift was executed.

1

2 (b) If a document of gift is valid under this
3 section, the law of this state governs the interpretation
4 of the document of gift.

5

6 (c) A person may presume that a document of gift or
7 amendment of an anatomical gift is valid unless that person
8 knows that it was not validly executed or was revoked.

9

10 **35-5-219. Donor registry.**

11

12 (a) The department shall electronically transfer to a
13 procurement organization the information that appears on
14 the front of the driver's license or identification card,
15 to include the name, gender, date of birth, social security
16 number if it appears on the license or card, driver's
17 license or identification card number, issue date or
18 renewal date and address of the individual identified as a
19 donor. The department shall also electronically transfer
20 any subsequent change in the donor's status, including
21 revocation of the gift. The department shall submit to the
22 department of health a statement of costs incurred to
23 initially install and establish the electronic transfer of
24 donor information. The department of health shall direct

1 the state auditor to reimburse the department for the costs
2 from the anatomical awareness account under W.S. 35-5-226
3 to the extent there are funds in that account. There shall
4 be no charge to a procurement organization for the transfer
5 of donor information.

6

7 (b) With the information obtained from the department
8 and from other sources including donors and donors' agents
9 pursuant to W.S. 35-5-205(b), the procurement organization
10 shall establish and maintain a statewide organ and tissue
11 donor registry to facilitate organ and tissue donations.
12 The cost incurred to create and maintain the registry shall
13 be paid by the procurement organization. Registry
14 information shall be accessible to any procurement
15 organization located in Wyoming and may be disseminated to
16 a procurement organization in another state for the
17 recovery or placement of organs and tissue. Registry
18 information may also be disseminated to Wyoming eye banks
19 under this section.

20

21 (c) A donor registry shall:

22

23 (i) Allow a donor or other person authorized
24 under W.S. 35-5-204 to include on the donor registry a

1 statement or symbol that the donor has made, amended or
2 revoked an anatomical gift;

3

4 (ii) Be accessible to a procurement organization
5 to allow it to obtain relevant information on the donor
6 registry to determine, at or near death of the donor or a
7 prospective donor, whether the donor or prospective donor
8 has made, amended or revoked an anatomical gift; and

9

10 (iii) Be accessible for purposes of paragraphs
11 (i) and (ii) of this subsection seven (7) days a week on a
12 twenty-four (24) hour basis.

13

14 (d) Personally identifiable information on a donor
15 registry about a donor or prospective donor may not be used
16 or disclosed without the express consent of the donor,
17 prospective donor or person who made the anatomical gift
18 for any purpose other than to determine, at or near death
19 of the donor or prospective donor, whether the donor or
20 prospective donor has made, amended or revoked an
21 anatomical gift.

22

23 (e) This section does not prohibit any person from
24 creating or maintaining a donor registry that is not

1 established by or under contract with the state. Any such
2 registry shall comply with subsections (c) and (d) of this
3 section.

4

5 **35-5-220. Effect of anatomical gift on advance health**
6 **care directive.**

7

8 (a) In this section:

9

10 (i) "Advance health-care directive" means a
11 power of attorney for health care or a record signed or
12 authorized by a prospective donor containing the
13 prospective donor's direction concerning a health-care
14 decision for the prospective donor;

15

16 (ii) "Declaration" means a record signed by a
17 prospective donor specifying the circumstances under which
18 a life support system may be withheld or withdrawn from the
19 prospective donor;

20

21 (iii) "Health-care decision" means any decision
22 regarding the health care of the prospective donor.

23

1 (b) If a prospective donor has a declaration or
2 advance health-care directive and the terms of the
3 declaration or directive and the express or implied terms
4 of a potential anatomical gift are in conflict with regard
5 to the administration of measures necessary to ensure the
6 medical suitability of a part for transplantation or
7 therapy, the prospective donor's attending physician and
8 prospective donor shall confer to resolve the conflict. If
9 the prospective donor is incapable of resolving the
10 conflict, an agent acting under the prospective donor's
11 declaration or directive, or, if none or the agent is not
12 reasonably available, another person authorized by law
13 other than this act to make health-care decisions on behalf
14 of the prospective donor, shall act for the donor to
15 resolve the conflict. The conflict shall be resolved as
16 expeditiously as possible. Information relevant to the
17 resolution of the conflict may be obtained from the
18 appropriate procurement organization and any other person
19 authorized to make an anatomical gift for the prospective
20 donor under W.S. 35-5-209. Before resolution of the
21 conflict, measures necessary to ensure the medical
22 suitability of the part may not be withheld or withdrawn
23 from the prospective donor if withholding or withdrawing

1 the measures is not contraindicated by appropriate end-of-
2 life care.

3

4 **35-5-221. Cooperation between coroner and procurement**
5 **organization.**

6

7 (a) A coroner shall cooperate with procurement
8 organizations to maximize the opportunity to recover
9 anatomical gifts for the purpose of transplantation,
10 therapy, research or education.

11

12 (b) If a coroner receives notice from a procurement
13 organization that an anatomical gift might be available or
14 was made with respect to a decedent whose body is under the
15 jurisdiction of the coroner and a post-mortem examination
16 is going to be performed, unless the coroner denies
17 recovery in accordance with W.S. 35-5-223, the coroner or
18 designee shall conduct a post-mortem examination of the
19 body or the part in a manner and within a period compatible
20 with its preservation for the purposes of the gift.

21

22 (c) A part may not be removed from the body of a
23 decedent under the jurisdiction of a coroner for
24 transplantation, therapy, research or education unless the

1 part is the subject of an anatomical gift. The body of a
2 decedent under the jurisdiction of the coroner may not be
3 delivered to a person for research or education unless the
4 body is the subject of an anatomical gift. This subsection
5 does not preclude a coroner from performing the medicolegal
6 investigation upon the body or parts of a decedent under
7 the jurisdiction of the coroner.

8

9 **35-5-222. Facilitation of anatomical gift from**
10 **decedent whose body is under jurisdiction of coroner.**

11

12 (a) Upon request of a procurement organization, a
13 coroner shall release to the procurement organization the
14 name, contact information and available medical and social
15 history of a decedent whose body is under the jurisdiction
16 of the coroner. If the decedent's body or part is
17 medically suitable for transplantation, therapy, research
18 or education, the coroner shall release post-mortem
19 examination results to the procurement organization. The
20 procurement organization may make a subsequent disclosure
21 of the post-mortem examination results or other information
22 received from the coroner only if relevant to
23 transplantation or therapy.

24

1 (b) The coroner may conduct a medicolegal examination
2 by reviewing all medical records, laboratory test results,
3 x-rays, other diagnostic results and other information that
4 any person possesses about a donor or prospective donor
5 whose body is under the jurisdiction of the coroner which
6 the coroner determines may be relevant to the
7 investigation.

8

9 (c) A person who has any information requested by a
10 coroner pursuant to subsection (b) of this section shall
11 provide that information as expeditiously as possible to
12 allow the coroner to conduct the medicolegal investigation
13 within a period compatible with the preservation of parts
14 for the purpose of transplantation, therapy, research or
15 education.

16

17 (d) If an anatomical gift has been or might be made
18 of a part of a decedent whose body is under the
19 jurisdiction of the coroner and a post-mortem examination
20 is not required, or the coroner determines that a post-
21 mortem examination is required but that the recovery of the
22 part that is the subject of an anatomical gift will not
23 interfere with the examination, the coroner and procurement
24 organization shall cooperate in the timely removal of the

1 part from the decedent for the purpose of transplantation,
2 therapy, research or education.

3

4 (e) If an anatomical gift of a part from the decedent
5 under the jurisdiction of the coroner has been or might be
6 made, but the coroner initially believes that the recovery
7 of the part could interfere with the post-mortem
8 investigation into the decedent's cause or manner of death,
9 the coroner shall consult with the procurement organization
10 or physician or technician designated by the procurement
11 organization about the proposed recovery. After
12 consultation, the coroner may allow the recovery.

13

14 (f) Following the consultation under subsection (e)
15 of this section, in the absence of mutually agreed-upon
16 protocols to resolve conflict between the coroner and the
17 procurement organization, if the coroner intends to deny
18 recovery, the coroner or designee, at the request of the
19 procurement organization, shall attend the removal
20 procedure for the part before making a final determination
21 not to allow the procurement organization to recover the
22 part. During the removal procedure, the coroner or
23 designee may allow recovery by the procurement organization
24 to proceed, or, if the coroner or designee reasonably

1 believes that the part may be involved in determining the
2 decedent's cause or manner of death, deny recovery by the
3 procurement organization.

4

5 (g) If the coroner or designee denies recovery under
6 subsection (f) of this section, the coroner or designee
7 shall:

8

9 (i) Explain in a record the specific reasons for
10 not allowing recovery of the part;

11

12 (ii) Include the specific reasons in the records
13 of the coroner; and

14

15 (iii) Provide a record with the specific reasons
16 to the procurement organization.

17

18 (h) If the coroner or designee allows recovery of a
19 part under subsection (d), (e) or (f) of this section, the
20 procurement organization, upon request, shall cause the
21 physician or technician who removes the part to provide the
22 coroner with a record describing the condition of the part,
23 a biopsy, a photograph and any other information and

1 observations that would assist in the post-mortem
2 examination.

3

4 (j) If a coroner or designee is required to be
5 present at a removal procedure under subsection (f) of this
6 section, upon request the procurement organization
7 requesting the recovery of the part shall reimburse the
8 coroner or designee for the additional costs incurred in
9 complying with subsection (f) of this section.

10

11 **35-5-223. Uniformity of application and construction.**

12

13 In applying and construing this uniform act, consideration
14 shall be given to the need to promote uniformity of the law
15 with respect to its subject matter among states that enact
16 it.

17

18 **35-5-224. Relation to Electronic Signatures in Global
19 and National Commerce Act.**

20

21 This act modifies, limits and supersedes the Electronic
22 Signatures in Global and National Commerce Act, 15 U.S.C.
23 Section 7001 et seq., but does not modify, limit or
24 supersede Section 101(a) of that act, 15 U.S.C. Section

1 7001, or authorize electronic delivery of any of the
2 notices described in Section 103(b) of that act, 15 U.S.C.
3 Section 7003(b).

4

5 **35-5-225. Promotion of anatomical gifts.**

6

7 Any money received from donations by owners of vehicles
8 under W.S. 31-3-101(h) shall be deposited into a separate
9 anatomical awareness account to be used by the department
10 of health and its advisory council to promote general
11 public awareness and education for the procurement of organ
12 and tissue donations for anatomical gifts pursuant to this
13 act.

14

15 **Section 2.** W.S. 6-4-502(b)(v), 31-3-101(h),
16 31-7-111(b)(viii), 31-7-139(a), 31-8-101(a) and 35-4-607
17 are amended to read:

18

19 **6-4-502. Mutilation of dead human bodies; penalties;**
20 **exceptions.**

21

22 (b) This section does not apply to:

23

1 (v) Conduct authorized by the Revised Uniform
2 Anatomical Gift Act, W.S. ~~35-5-101 through 35-5-119~~
3 35-5-201 through 35-5-225.

4
5 **31-3-101. Registration fees; exemptions.**

6
7 (h) Any owner of a vehicle who wishes to donate money
8 to promote awareness and education efforts for procurement
9 of organ and tissue donations for anatomical gifts shall be
10 provided space on the registration form to do so pursuant
11 to W.S. 31-2-201(b)(v). Any money received under this
12 subsection shall be forwarded by the county treasurer to
13 the state treasurer to be deposited into a separate account
14 to be used as provided by W.S. ~~35-5-118~~ 35-5-225.

15
16 **31-7-111. Application for license or permit**
17 **generally.**

18
19 (b) The application shall include:

20
21 (viii) An organ donor notation pursuant to W.S.
22 ~~35-5-112~~ 35-5-205;

23
24 **31-7-139. Anatomical organ donor.**

1

2 (a) The department shall, at the applicant's request,
3 identify on the Wyoming driver's license or identification
4 card that the person is an anatomical organ donor as
5 provided by W.S. ~~35-5-112~~ 35-5-205.

6

7 **31-8-101. Issuance to residents by department;**
8 **restrictions.**

9

10 (a) Any Wyoming resident may be issued an
11 identification card by the department of transportation.
12 The application shall state the legal name, correct age and
13 any other identifying data the department may require and
14 shall be signed and verified by the applicant. The
15 identification card shall at the applicant's request
16 indicate that the applicant is an anatomical organ donor as
17 provided by W.S. ~~35-5-112~~ 35-5-205.

18

19 **35-4-607. Who may have bodies in possession.**

20

21 Any regularly licensed physician or dentist of the state,
22 ~~or~~ any medical student who is a regular matriculate of a
23 recognized medical college, under authority of such
24 physician, or any person authorized by the Revised Uniform

1 Anatomical Gift Act may have in his possession human dead
2 bodies, or parts thereof, lawfully obtained, for the
3 purpose of anatomical inquiry or dissection.

4

5 **Section 2.** W.S. 35-5-101 through 35-5-119 are
6 repealed.

7

8 **Section 3.** Commencing with the fiscal year beginning
9 July 1, 2009, any funds in the account established by W.S.
10 35-5-118 shall be transferred by the state treasurer to the
11 account established by W.S. 35-5-225.

12

13 **Section 4.** This act is effective July 1, 2009.

14

15

(END)