

WEST VIRGINIA LEGISLATURE

2022 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 4005

BY DELEGATES TULLY, DEAN, WORRELL, LONGANACRE,
TONEY, CROUSE, BURKHAMMER, CONLEY, D. JEFFRIES,
MAZZOCCHI, AND MALLOW

[Originating in the Committee on the Judiciary;
reported on February 9, 2022]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,
2 designated §61-2-17, relating to fetal body parts; defining terms; prohibiting buying,
3 selling, receiving, transferring, acquiring or transporting of fetal body parts resulting from
4 an induced abortion; providing exceptions; and providing criminal penalties.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2. CRIMES AGAINST THE PERSON.

§61-2-17. Prohibited sale, receipt, or transport of induced abortion fetal body parts.

1 (a) For purposes of this section:

2 (1) "Receive" means acquiring any fetal body part, or the rights to any fetal body part,
3 through an act of donation or sale via any transaction prohibited by this section.

4 (2) "Fetal body part" means a cell, tissue, organ, or other part of a fetus which is aborted
5 by an induced abortion.

6 (3) "Fetus" has the same meaning as that set forth in §16-2M-2 of this code.

7 (4) "Induced abortion" means the act of using or prescribing any instrument, medicine,
8 drug, or any other substance, device, or means with the intent to terminate the clinically
9 diagnosable pregnancy of a woman with knowledge that the termination by those means will, with
10 reasonable likelihood, cause the death of the fetus. The use, prescription, or means is not an
11 abortion if undertaken with the intent to do any of the following:

12 (A) Save the life or preserve the health of the fetus.

13 (B) Remove a fetus which died of natural causes.

14 (C) Remove an ectopic pregnancy.

15 (5) "Miscarriage or stillbirth" means the spontaneous or accidental death of a fetus,
16 whether the death occurred in the womb or in the process of birth.

17 (b) A person may not knowingly:

18 (1) Buy, sell, receive, or otherwise transfer or acquire a fetal body part resulting from an
19 induced abortion;

20 (2) Transport with the intent to sell or otherwise transfer a fetal body part resulting from an
21 induced abortion;

22 (3) Transport a fetal body part resulting from an induced abortion that has been acquired
23 by any person via any transaction prohibited by this section.

24 (c) Nothing in this section shall be construed to prohibit:

25 (1) Any transaction related to the final disposition of the remains of the aborted fetus in
26 accordance with state law, or for pathological or diagnostic purposes;

27 (2) The donation for medical research, experimentation, or study of the remains of an
28 embryo or fetus whose death is the result of miscarriage, stillbirth, sickness or disease, accident,
29 or crime committed on the fetus or the mother by a third party. In these instances, the donation
30 may be made only by the mother of the fetus or, if she is incapacitated, by the father of the fetus
31 or by a legal guardian;

32 (3) The use of existing established cell lines derived from aborted human embryos or
33 fetuses; and

34 (4) The reimbursement or payment associated with collection, processing, preservation,
35 storage, quality control, or transportation of fetus tissues for the purposes authorized by this
36 subsection.

37 (d) A person who violates the provisions of this section is guilty of a misdemeanor and,
38 upon conviction thereof, shall be fined not more than \$1,000 or confined in jail not more than one
39 year, or both fined and confined.

NOTE: The purpose of this bill is to prohibit the sale, transfer, and transportation of fetal body parts.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.