

SENATE No. 2441

The Commonwealth of Massachusetts

PRESENTED BY:

Joseph A. Boncore, (BY REQUEST)

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act relative to ethics in organ transplants.

PETITION OF:

NAME:

Dee Lu

DISTRICT/ADDRESS:

1 Cedarwood Ln. Burlington, MA

SENATE No. 2441

By Mr. Boncore (by request), a petition (accompanied by bill, Senate, No. 2441) (subject to Joint Rule 12) of Dee Lu for legislation relative to ethics in organ transplants. The Judiciary.

The Commonwealth of Massachusetts

**In the One Hundred and Ninety-First General Court
(2019-2020)**

An Act relative to ethics in organ transplants.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

1 SECTION 1. Purpose

2 It is noted that there have been persistent and credible reports of state-sanctioned forced
3 organ harvesting from non-consenting prisoners of conscience in the Republic of China,
4 particularly from Falun Gong adherents and Uighurs Muslim minority. In fact, The
5 Congressional – Executive Commission on China, in its 2018 annual report, stated that
6 “authorities also persisted in their crackdown on Falun Gong practitioners, subjecting them to
7 abusive treatment, especially when in custody,” and acknowledged the concern over “reports that
8 numerous organ transplants in China have used the organs of detained prisoners, including Falun
9 Gong practitioners”. Being cognizant of the possibility that citizens of the Commonwealth of
10 Massachusetts may travel to China for organ transplant, this Act seeks to clarify the scope of the
11 Uniform Anatomical Gift Act as coded in Chapter 113A of the General Laws in its application to
12 transplant tourism. The Act also seeks to enforce the highest medical ethic standards that govern

13 future doctors and medical staffs trained by top-quality institutions in the Commonwealth of
14 Massachusetts.

15 SECTION 2. Chapter 113A of the General laws is hereby amended by inserting after
16 section 16 the following section:-

17 Section 16A. (a) The following shall constitute the crime of transplant tourism:

18 (1) Traveling with the Intent to Engage in Transplant Tourism

19 A person who travels outside their country of permanent residence with the intent to
20 engage in a transplant procedure shall be fined an amount not greater than \$70,000 and
21 imprisoned for a maximum duration of 2 years. The penalty shall include forfeiture of travel
22 documents and any property used or intended to be used to commit or promote commission of
23 the offense.

24 (2) Traveling and Engaging in Transplant Tourism

25 A person who travels outside their country of permanent residence and engages in an
26 organ transplantation procedure with a foreign citizen shall be fined an amount not greater than
27 \$500,000 and imprisoned for a maximum duration of 7 years. The penalty shall include forfeiture
28 of travel documents and any property used or intended to be used to commit or promote
29 commission of the offense. The organ itself shall not be considered property subject to forfeiture.

30 (b) Liability of Corporate Persons

31 Any legal person directing, organizing, promoting, procuring, or facilitating the travel of
32 a person with the knowledge that such a person will engage in transplant tourism shall be liable.

33 Penalties include closure of business, withdrawing of licenses or authorizations, and freezing or
34 confiscation of proceeds of the crime.

35 (c) Liability for Medical Professionals

36 Any medical establishment, attending physician, or medical practitioner who has any
37 knowledge of or learns of facts or circumstances that give rise to a reasonable belief that a person
38 has engaged in transplant tourism shall immediately report the same, either orally or in writing,
39 to law enforcement. Failure to do so shall be a ground for an administrative proceeding, without
40 prejudice to criminal liability under the Act, if evidence warrants.

41 SECTION 3. Section 2 of said chapter 113A, is hereby amended by inserting after the
42 last paragraph the following paragraph:-

43 “Transplant tourism”. means an act of traveling outside their country of permanent
44 residence for the purpose of undergoing an organ transplantation procedure and the organ donor
45 is a foreign national and not genetically related to the recipient. For the purpose of this
46 paragraph, “permanent residence” shall mean a person's true, fixed, and permanent home and
47 principal establishment, and that person has the intention of returning to it whenever they are
48 absent therefrom.

49 SECTION 4. Chapter 112 of the General laws is hereby amended by inserting after
50 section 2D the following section:-

51 Section 2E. Schools for training of organ transplant surgeon and medical staff assisting
52 with organ transplant procedure

53 (a) Schools for training of organ transplant surgeon and assisting medical staff shall,
54 during the course of the training, provide mandatory professional ethics coursework that covers
55 illegality of engaging tourism transplant, and require all trainees to sign an agreement to not
56 perform or aid prohibited organ transplant practice.

57 (b) A school for training of organ transplant surgeon shall mean a school maintained or
58 classes conducted for the purpose of training two or more individuals to perform or assist in the
59 organ transplant procedure.

60 SECTION 5. The provisions of this Act, unless otherwise expressly provided, shall take
61 effect upon passage.