

AMENDED IN ASSEMBLY AUGUST 17, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

Assembly Joint Resolution

No. 13

Introduced by Assembly Member Ammiano

April 2, 2009

Assembly Joint Resolution No. 13—Relative to blood donation.

LEGISLATIVE COUNSEL'S DIGEST

AJR 13, as amended, Ammiano. Blood donation.

This measure would request that the President of the United States encourage, and that the Secretary of the United States Department of Health and Human Services adopt, policies that repeal the current ~~discriminatory~~ *donor suitability and deferral* policies of the ~~FDA~~ *federal Food and Drug Administration* regarding ~~blood~~ *the donation of blood and blood products* by gay, bisexual, transgender, and heterosexual males.

Fiscal committee: no.

1 WHEREAS, The California State Legislature encourages
2 nondiscrimination against individuals on the basis of actual or
3 perceived sex, sexual orientation, and gender identity and
4 expression; and

5 WHEREAS, The American Red Cross (ARC) has joined the
6 American Association for Blood Banks (AABB) and America's
7 Blood Centers (ABC) in asking for guidelines that treat all donors
8 equally; and

9 WHEREAS, The current federal Food and Drug Administration
10 (FDA) policy, passed in 1985, prohibits any man who has had sex

1 with another man since 1977 from donating blood for the rest of
2 his life; and

3 *WHEREAS, The American Medical Association (AMA) House*
4 *of Delegates and the HIV Medicine Association (HIVMA), within*
5 *the Infectious Disease Society of America, have requested that the*
6 *FDA abandon these current donor policies in favor of policies*
7 *consistent with sound science; and*

8 *WHEREAS, The AABB, ABC, and ARC, on March 9, 2006,*
9 *at the Blood Products Advisory Committee of the FDA, at a*
10 *workshop titled “Behavior-Based Blood Donors Deferrals in the*
11 *Era of Nucleic Acid Testing (NAT),” issued a joint statement*
12 *affirming that they believe that the current lifetime deferral for*
13 *men who have had sex with other men is medically and*
14 *scientifically unwarranted and recommended that the deferral*
15 *criteria be modified and made comparable with criteria for other*
16 *groups at increased risk for sexual transmission of*
17 *transfusion-transmitted infections. Blood donors who are judged*
18 *to be at risk of exposure via heterosexual routes are deferred for*
19 *one year, while men who have had sex with another man even*
20 *once since 1977 are permanently deferred; and*
21 *transfusion-transmitted infections; and*

22 *WHEREAS, It does not appear rational to broadly differentiate*
23 *sexual transmission via responsible male-to-male sexual activity*
24 *from transmission via responsible heterosexual activity on*
25 *scientific grounds. To many, this differentiation is unfair and*
26 *discriminatory, resulting, creates stigma without any justifiable*
27 *public health imperative, and results in negative attitudes to blood*
28 *donor eligibility criteria, blood collection facilities, and, in some*
29 *eases, to the cancellation of blood drives. The AABB, ABC, and*
30 *ARC think that the FDA should consider that the permanent*
31 *deferral standard, which is seen as scientifically marginal and*
32 *unfair or discriminatory by individuals with the identified*
33 *characteristic, may motivate those individuals to actively ignore*
34 *the prohibition and provide blood collection facilities with less*
35 *accurate information; and criteria and blood collection facilities;*
36 *and*

37 *WHEREAS, Blood banks in the United States routinely operate*
38 *with a short blood supply. After significant disasters or national*
39 *emergencies, the AABB, ABC, and ARC have each reported*
40 *regions operating with less than two days supply of blood. Every*

1 day, cancer patients, people with hemophilia, and others who need
2 regular blood transfusions rely on a readily available supply of
3 blood. During a crisis, the ability to collect blood in the affected
4 region is compromised while the need increases. The resulting
5 shortage could lead to catastrophic results; and *blood; and*

6 *WHEREAS, Many men who have sex with men are healthy, do*
7 *not present a risk of introducing a transfusion transmissible*
8 *infection such as HIV into the nation's blood supply, and wish to*
9 *be donors without compromising the safety or reliability of the*
10 *supply. These men wish to join their neighbors in expression of a*
11 *common altruistic form of civic engagement; and*

12 *WHEREAS, The AABB, ABC, AMA, HIVMA, and ARC*
13 *acknowledge the concern that relaxation of deferral criteria may*
14 *increase the number of presenting donors who are HIV positive.*
15 *However, this impact has not been measured directly, it has only*
16 *been modeled using what may be incomplete assumptions: concern*
17 *that a hasty relaxation of deferral criteria may add uncertainty to*
18 *protection of the blood supply unless reliable data is available to*
19 *avoid that result. The blood collectors are willing to assist in*
20 *collecting data regarding the actual impact of changes in the*
21 *deferral, in order to allow for informed decisionmaking, and for*
22 *the development of additional, appropriate interventions to*
23 *ameliorate the impact; and*

24 *WHEREAS, Technological advances such as individual NAT,*
25 *pathogen inactivation, or added means of screening hold promise*
26 *to substantially reduce the risk that transfusion transmissible*
27 *infections from all donors, including men who have had sex with*
28 *men, could be introduced into the blood supply, and federal*
29 *advisory committees have encouraged the FDA to develop these*
30 *technologies further; and*

31 *WHEREAS, In summary, the AABB, ABC, AMA, HIVMA, and*
32 *ARC believe that the deferral period for men who have had sex*
33 *with other men should be modified to be consistent with deferrals*
34 *for those judged to be at risk of infection via heterosexual routes*
35 *and that this consideration should also be extended to donors of*
36 *human cells, tissues, and cellular and tissue-based products; and*

37 *WHEREAS, FDA guidelines followed by blood banks*
38 *throughout the United States inadvertently discriminate against*
39 *create unjustified stigma directed towards gay, bisexual,*

1 transgender, and heterosexual males on the basis that they have
2 had sex with another male since 1977; and

3 WHEREAS, The AABB, ABC, and ARC are required to follow
4 the FDA guidelines, which consequently are in conflict with state
5 nondiscrimination policies; now, therefore, be it

6 *Resolved by the Assembly and the Senate of the State of*
7 *California, jointly,* That the California State Legislature calls upon
8 the President of the United States to encourage, and the Secretary
9 of the United States Department of Health and Human Services
10 to adopt, policies that repeal the current ~~discriminatory~~ *donor*
11 *suitability and deferral* policies of the FDA regarding blood
12 donation by men who have had sex with other men *and, instead,*
13 *direct the FDA to develop science based policies consistent with*
14 *the history described in this resolution;* and be it further

15 *Resolved,* That the Chief Clerk of the Assembly transmit copies
16 of this resolution to the President and Vice President of the United
17 States, to the Secretary of the United States Department of Health
18 and Human Services, to the Speaker of the House of
19 Representatives, to the Majority Leader of the Senate, and to each
20 Senator and Representative from California in the Congress of the
21 United States.