

AMENDED IN ASSEMBLY JUNE 25, 2015

AMENDED IN ASSEMBLY JUNE 8, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

Assembly Joint Resolution

No. 16

**Introduced by Assembly Members Eduardo Garcia, Bloom, and
Low**

**(Coauthors: Assembly Members Atkins, Chiu, Eggman, —and
~~Cristina Garcia~~ *Cristina Garcia, Achadjian, Alejo, Baker, Bonilla,
Burke, Calderon, Campos, Chang, Chau, Chávez, Chu, Cooley,
Cooper, Daly, Dodd, Frazier, Gatto, Gipson, Gomez, Gonzalez,
Gordon, Gray, Hadley, Roger Hernández, Holden, Irwin,
Jones-Sawyer, Levine, Lopez, Maienschein, Mayes, McCarty,
Medina, Mullin, Nazarian, O'Donnell, Perea, Quirk, Rendon,
Ridley-Thomas, Rodriguez, Santiago, Mark Stone, Thurmond,
Ting, Weber, Wilk, Williams, and Wood*)**

May 13, 2015

Assembly Joint Resolution No. 16—Relative to blood donations.

LEGISLATIVE COUNSEL'S DIGEST

AJR 16, as amended, Eduardo Garcia. Blood donations.

This measure would call upon the President of the United States to encourage the Secretary of the United States Department of Health and Human Services to adopt policies to repeal the current and upcoming discriminatory donor suitability policies of the United States Food and Drug Administration (FDA) regarding blood donations by men who have had sex with another man and, instead, direct the FDA to develop science-based policies such as criteria based on risky behavior in lieu of sexual orientation.

Fiscal committee: no.

1 WHEREAS, Since 1983, the United States Food and Drug
2 Administration (FDA), an agency under the United States
3 Department of Health and Human Services (HHS), has prohibited
4 the donation of blood by any man who has had sex with another
5 man (MSM) at any time since 1977; and

6 WHEREAS, In December 2014, based on recommendations
7 from the HHS Advisory Committee on Blood and Tissue Safety
8 and Availability, the FDA announced its intent to promulgate
9 regulations to allow an MSM to donate blood only if he has not
10 been sexually active for the past 12 months. Despite these recent
11 steps toward a policy change, a double standard would still exist
12 under the policy as it is proposed to be revised because it would
13 still treat gay and bisexual men differently from heterosexual men;
14 and

15 WHEREAS, California law prohibits discrimination against
16 individuals on the basis of actual or perceived sex, sexual
17 orientation, gender identity, and gender-related appearance and
18 behavior; and

19 WHEREAS, Spain, Italy, Russia, Mexico, and Portugal have
20 adopted blood donor policies that measure risk against a set of
21 behaviors, sexual and otherwise, rather than the sex of a person's
22 sexual partner or partners; and

23 WHEREAS, The FDA does not allow gay and bisexual men in
24 committed relationships to donate blood because, while one partner
25 may be monogamous, that individual cannot guarantee that the
26 other partner is monogamous. The FDA does not apply this same
27 logic to heterosexual relationships, which in effect discriminates
28 against gay and bisexual men; and

29 WHEREAS, A 12-month deferral policy for gay and bisexual
30 men to donate blood is overly stringent given the scientific
31 evidence, advanced testing methods, and the safety and quality
32 control measures in place within the different FDA-qualified blood
33 donating centers. The technology can identify within 7 to 10 days
34 with 99.9 percent accuracy whether or not a blood sample is
35 HIV-positive, and the chance of the blood test being inaccurate
36 within the 10-day window is about 1 in 2,000,000; and

37 WHEREAS, The General Social Survey conducted by NORC
38 at the University of Chicago estimates that 8.5 percent of men in

1 the United States have had at least one male sexual partner since
2 18 years of age, 4.1 percent of men report at least one male sex
3 partner in the last 5 years, and 3.8 percent report a male sex partner
4 in the last 12 months; and

5 WHEREAS, An estimated 45.4 percent of men (54 million) in
6 the United States are eligible to donate blood, but only 8.7 percent
7 of eligible men actually do. There are 15.7 million donations of
8 blood per year made by 9.2 million donors, yielding approximately
9 1.7 donations per donor; and

10 WHEREAS, The Williams Institute of the University of
11 California at Los Angeles School of Law estimates that, based on
12 the population of eligible and likely donors among the MSM
13 community, lifting the federal lifetime deferral policy on blood
14 donation by an MSM would result in 4.2 million newly eligible
15 male donors, of which 360,600 would likely donate, generating
16 615,300 additional pints of blood. Applying national estimates to
17 the California population, the Institute further estimates that lifting
18 the ban on MSM blood donations would add an additional 510,000
19 eligible men to the current blood donor pool, of which 43,917
20 would likely donate, resulting in an additional 74,945 donated
21 pints in California; now, therefore, be it

22 *Resolved by the Assembly and the Senate of the State of*
23 *California, jointly*, That the California State Legislature calls upon
24 the President of the United States to encourage the Secretary of
25 the United States Department of Health and Human Services to
26 adopt policies to repeal the current and upcoming discriminatory
27 donor suitability policies of the United States Food and Drug
28 Administration (FDA) regarding blood donations by men who
29 have had sex with another man and, instead, direct the FDA to
30 develop science-based policies such as criteria based on risky
31 behavior in lieu of sexual orientation; and be it further

32 *Resolved*, That the Chief Clerk of the Assembly transmit copies
33 of this resolution to the President and Vice President of the United
34 States, to the Secretary of the United States Department of Health
35 and Human Services, to the Speaker of the House of
36 Representatives, to the Majority Leader of the Senate, and to each
37 Senator and Representative from California in the Congress of the
38 United States.

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