

Introduced by Senator Wolk
(Coauthor: Senator Pavley)
(Coauthor: Assembly Member Cristina Garcia)

February 19, 2016

An act to amend Section 1635 of, and to add Article 2.5 (commencing with Section 1642) to Chapter 4.1 of Division 2 of, the Health and Safety Code, relating to tissue banks.

LEGISLATIVE COUNSEL'S DIGEST

SB 1316, as introduced, Wolk. Tissue banks: human milk.

Existing law, with certain exceptions, requires a tissue bank operating in California to have a current valid license issued by the State Department of Public Health. Existing law defines a tissue bank as a place, establishment, or institution that collects, processes, stores, or distributes tissue for transplantation into human beings. Existing law defines tissue to include human bodily fluids, and defines transplantation to include by ingestion. The department may suspend or revoke a tissue bank license for specified reasons. A violation of the provisions regulating tissue banks is a misdemeanor.

This bill would define a "human milk tissue bank" as a tissue bank that provides financial compensation to a participating mother for procuring human milk for the purpose of human consumption, and would define a "participating mother" as a woman who provides her human milk to a human milk tissue bank in exchange for financial compensation. The bill would require a human milk tissue bank to, among other things, work with lactation support groups to provide breastfeeding education and lactation support for a participating mother, as provided. The bill would prohibit a human milk tissue bank from, among other things, procuring human milk from a mother within her

first 180 days postpartum. The bill would require the department to adopt, on or before January 1, 2018, rules and regulations governing a human milk tissue bank substantially based upon the guidelines of the Human Milk Banking Association of North America for safely procuring, processing, storing, and distributing human milk, and would require a human milk tissue bank to comply with the latter guidelines until the department adopts those rules and regulations. The bill would provide that a violation of its provisions is not punishable as a misdemeanor under existing law.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 1635 of the Health and Safety Code is
2 amended to read:
3 1635. (a) “Donor” means an individual, living or deceased,
4 from whom tissue is removed.
5 (b) “Person” means an individual, corporation, business trust,
6 estate trust, partnership, association, state or local government, or
7 subdivision or agency thereof, or any other legal entity.
8 (c) “Tissue” means a human cell, group of cells, including the
9 cornea, sclera, or vitreous humor and other segments of, or the
10 whole eye, bones, skin, arteries, sperm, blood, other fluids, and
11 any other portion of a human body.
12 (d) “Tissue bank” means a place, establishment, or institution
13 that collects, processes, stores, or distributes tissue for
14 transplantation into human beings.
15 (e) “Transplantation” means the act or process of transferring
16 tissue, including by ingestion, from a donor to the body of the
17 donor or another human being.
18 (f) “Department” means the State Department of Public Health.
19 (g) “*Human milk tissue bank*” means a tissue bank that provides
20 a participating mother with financial compensation for procuring
21 human milk for the purpose of human consumption.
22 (h) “*Participating mother*” means a woman who provides her
23 human milk to a human milk tissue bank in exchange for financial
24 compensation.

1 SEC. 2. Article 2.5 (commencing with Section 1642) is added
2 to Chapter 4.1 of Division 2 of the Health and Safety Code, to
3 read:

4
5 Article 2.5. Human Milk Tissue Banks
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7 1642. A human milk tissue bank shall do all of the following:

8 (a) Comply with the Human Milk Banking Association of North
9 America guidelines for safely procuring, processing, storing, and
10 distributing human milk, until the department adopts rules and
11 regulations pursuant to Section 1642.4.

12 (b) Work with local, community-based or hospital-based
13 lactation support groups to provide ongoing breastfeeding
14 education and lactation support for a participating mother to ensure
15 that her nursing children are adequately nourished by her human
16 milk.

17 (c) Disclose to a prospective participating mother the purposes
18 for which the procured milk is used.

19 1642.2. A human milk tissue bank shall not do any of the
20 following:

21 (a) Procure human milk from a mother within her first 180 days
22 postpartum.

23 (b) Use the term “donor” to describe a participating mother.

24 (c) Use the term “community benefit” to describe itself or its
25 activities.

26 1642.4. Notwithstanding Section 1639, the department shall
27 adopt, on or before January 1, 2018, rules and regulations
28 governing a human milk tissue bank substantially based upon the
29 guidelines of the Human Milk Banking Association of North
30 America for safely procuring, processing, storing, and distributing
31 human milk.

32 1642.6. A violation of this article does not constitute a
33 misdemeanor punishable pursuant to Section 1641.

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