
THE GENERAL ASSEMBLY OF PENNSYLVANIA

HOUSE BILL

No. 153 Session of
2005

INTRODUCED BY GODSHALL, ADOLPH, BAKER, BARRAR, BASTIAN, BEBKO-JONES, BELARDI, BELFANTI, BENNINGHOFF, BUNT, CAPPELLI, CAUSER, COSTA, CRAHALLA, CREIGHTON, CRUZ, CURRY, DeWEESE, J. EVANS, FABRIZIO, FAIRCHILD, FRANKEL, FREEMAN, GEORGE, GERGELY, GINGRICH, GOOD, GOODMAN, HARPER, HERMAN, HERSHEY, JAMES, KAUFFMAN, KIRKLAND, KOTIK, LEACH, LEDERER, MANDERINO, MANN, MARKOSEK, MCGILL, McILHATTAN, MELIO, O'NEILL, PISTELLA, RAMALEY, ROEBUCK, SAINATO, SANTONI, SCAVELLO, SHANER, STABACK, E. Z. TAYLOR, THOMAS, TIGUE, TRUE, WALKO, WASHINGTON, WATSON, WOJNAROSKI, YUDICHAK, WANSACZ, CORNELL, MCGEEHAN AND PETRARCA, JANUARY 31, 2005

AS AMENDED ON THIRD CONSIDERATION, IN SENATE, JUNE 13, 2006

AN ACT

1 Relating to organ and bone marrow donation; providing for a
2 special leave of absence for organ and bone marrow donors;
3 and providing for a tax credit and for additional duties of
4 ~~the Department of Health and the Department of Revenue.~~ <—

5 The General Assembly finds as follows:

6 (1) Each year an estimated 16,000 Americans contract
7 leukemia, aplastic anemia or other fatal blood diseases.

8 (2) If a matched bone marrow donor can be found, many of
9 these victims can be cured.

10 (3) There is now a national Marrow Donor Program, and
11 the United States is working with 30 other countries to
12 establish a worldwide registry.

13 (4) Marrow donation does not involve considerable risk
14 to the donor.

1 (5) There are approximately 65,000 patients in the
2 United States and approximately 3,500 patients in this
3 Commonwealth awaiting life-saving organ transplants.

4 (6) Many patients awaiting organ transplants could
5 benefit from living organ donation, including approximately
6 43,000 kidney patients, 7,000 liver patients and 3,500 lung
7 patients.

8 (7) Of the more than 1,500 organ transplants performed
9 in this Commonwealth in 1998, approximately 250 were from
10 living donors.

11 (8) There continues to be a great need for bone marrow
12 and organ donors among the African-American, Asian, Native
13 American and Hispanic communities.

14 (9) Potential living bone marrow and organ donors should
15 be able to perform their life-saving service without risk of
16 loss of income or employment.

17 The General Assembly of the Commonwealth of Pennsylvania
18 hereby enacts as follows:

19 Section 1. Short title.

20 This act shall be known and may be cited as the Organ and
21 Bone Marrow Donor Act.

22 Section 2. Definitions.

23 The following words and phrases when used in this act shall
24 have the meanings given to them in this section unless the
25 context clearly indicates otherwise:

26 ~~"Business firm." Any business entity authorized to do~~ <—
27 ~~business in this Commonwealth and subject to taxes imposed by~~
28 ~~Article IV, VI, VII, VIII, IX or XV of the act of March 4, 1971~~
29 ~~(P.L.6, No.2), known as the Tax Reform Code of 1971. This term~~
30 ~~also includes a pass-through entity.~~

1 "BUSINESS FIRM." AN ENTITY AUTHORIZED TO DO BUSINESS IN THIS <—
2 COMMONWEALTH AND SUBJECT TO THE TAXES IMPOSED BY ARTICLE III,
3 IV, VI, VII, VIII, IX OR XV OF THE ACT OF MARCH 4, 1971 (P.L.6,
4 NO.2), KNOWN AS THE TAX REFORM CODE OF 1971. THIS TERM ALSO
5 INCLUDES A NATURAL PERSON AS SUCH OR AS A MEMBER OF A
6 PARTNERSHIP OR A SHAREHOLDER IN A PENNSYLVANIA S CORPORATION AND
7 ESTATES AND TRUSTS RECEIVING INCOME AS SET FORTH IN SECTION 3.

8 "Department." The Department of ~~Health~~ REVENUE of the <—
9 Commonwealth.

10 "Leave of absence period." The period, not exceeding five
11 working days or the hourly equivalent of five working days per
12 employee, during which a business firm provides a paid leave of
13 absence to the employee for the purpose of organ or bone marrow
14 donation. THE TERM DOES NOT INCLUDE A PERIOD DURING WHICH AN <—
15 EMPLOYEE UTILIZES ANY ANNUAL LEAVE OR SICK DAYS THAT THE
16 EMPLOYEE HAS BEEN GIVEN BY THE EMPLOYER.

17 ~~"Pass-through entity." Any of the following:~~ <—

18 ~~(1) A partnership, limited partnership, limited~~
19 ~~liability company, business trust or other unincorporated~~
20 ~~entity that for Federal income tax purposes is taxable as a~~
21 ~~partnership.~~

22 ~~(2) A Pennsylvania S corporation.~~

23 "PASS-THROUGH ENTITY." A PARTNERSHIP OR PENNSYLVANIA S <—
24 CORPORATION AS DEFINED IN SECTION 301(N.0) AND (S.2),
25 RESPECTIVELY, OF THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN
26 AS THE TAX REFORM CODE OF 1971.

27 ~~Section 3. Bone marrow donor education.~~ <—

28 ~~(a) Content of program. The department shall provide~~
29 ~~information and education to the residents of this Commonwealth~~
30 ~~about bone marrow donation which shall include:~~

1 ~~(1) The need for donors and benefits to the recipient.~~
2 ~~(2) The medical procedures donors must undergo.~~
3 ~~(3) The process by which a potential donor becomes~~
4 ~~registered.~~

5 ~~(4) Special efforts to educate and recruit minority~~
6 ~~populations to volunteer as potential bone marrow donors.~~

7 ~~(b) Means of communication. -- Means of communication shall~~
8 ~~include, but not be limited to, the placement of educational~~
9 ~~material in State photo licensing centers, health care~~
10 ~~facilities, blood banks and State agencies.~~

11 ~~Section 4. Employee leave for organ or bone marrow donation.~~

12 ~~A business firm may grant to any of its employees a special~~
13 ~~paid leave of absence for the purpose of donating an organ or~~
14 ~~bone marrow, subject to the following:~~

15 ~~(1) The employer may require verification by a physician~~
16 ~~concerning the length and purpose of the leave requested.~~

17 ~~(2) If there is a medical determination that the~~
18 ~~employee does not qualify as an organ or bone marrow donor,~~
19 ~~the paid leave of absence granted to the employee prior to~~
20 ~~that determination is not affected.~~

21 ~~(3) An employee's rights with respect to any other~~
22 ~~employment benefit shall not be affected by leave granted for~~
23 ~~purposes of organ or bone marrow donation.~~

24 ~~Section 5 3. Organ and bone marrow donor tax credit.~~

25 ~~(a) General rule. -- Every business firm which provides one or~~

26 ~~(A) QUALIFICATION. --~~

27 ~~(1) EXCEPT AS SET FORTH IN PARAGRAPH (2), EVERY BUSINESS~~
28 ~~FIRM WHICH PROVIDES ONE OR more paid leaves of absence to~~
29 ~~employees for the specific purpose of organ or bone marrow~~
30 ~~donation shall qualify for the organ or bone marrow donor tax~~

1 credit. A business firm which qualifies for the credit may
2 apply that credit against any tax due under Article III, IV,
3 VI, VII, VIII, IX or XV of the act of March 4, 1971 (P.L.6,
4 No.2), known as the Tax Reform Code of 1971. ~~Notwithstanding~~ <—
5 ~~the foregoing, the credit shall not be 1971.~~ <—

6 (2) NOTWITHSTANDING PARAGRAPH (1), THE CREDIT SHALL NOT
7 BE applied against any tax withheld by an employer from an
8 employee under Article III of the Tax Reform Code of 1971. ~~IN~~ <—
9 ~~RELATION TO ANY TAX DUE UNDER ARTICLE III OF THE TAX REFORM~~
10 ~~CODE OF 1971, THE CREDIT AUTHORIZED BY THIS SECTION MAY BE~~
11 ~~APPLIED ONLY AGAINST THE NET PROFITS INCOME CLASS ENUMERATED~~
12 ~~IN SECTION 303(A)(2) OF THE TAX REFORM CODE OF 1971 FROM~~
13 ~~SOURCES IN THIS COMMONWEALTH.~~

14 ~~(b) Calculation of credit. The tax credit amount shall be~~ <—

15 (B) CALCULATION OF CREDIT.-- <—

16 (1) THE TAX CREDIT AMOUNT SHALL BE equal to the amount
17 of employee salary COMPENSATION paid during the leave of <—
18 absence period, the cost of temporary replacement help, if
19 any, during the leave of absence period and any miscellaneous
20 expenses authorized by regulation that are incurred in
21 connection with the leave of absence period. Credits
22 calculated for a business firm subject to tax in another
23 state shall be apportioned to this Commonwealth in the manner
24 specified by regulation.

25 (2) IF THE EMPLOYEE ON PAID LEAVE OF ABSENCE IS EMPLOYED <—
26 BY A BUSINESS FIRM ORGANIZED AS A PASS-THROUGH ENTITY, THE
27 CREDIT SHALL BE CALCULATED IN PROPORTION TO THE MEMBER'S OR
28 SHAREHOLDER'S PORTION OF THE PASS-THROUGH ENTITY'S INCOME. IN
29 THE CASE OF A TRUST OR ESTATE WITH INCOME CREDITED TO OR
30 DISTRIBUTED TO A BENEFICIARY, THE CREDIT SHALL BE MEASURED IN

1 PROPORTION TO THE BENEFICIARY'S SHARE OF INCOME.

2 (c) Unused credit.--Credits not used for the taxable year
3 during which a leave of absence was granted may be carried over
4 for three taxable years. Credits shall not be carried back
5 against preceding taxable years AND SHALL NOT BE REFUNDABLE. <—

6 ~~Section 6. Duties of Department of Revenue.~~ <—

7 SECTION 4. DUTIES OF DEPARTMENT. <—

8 (a) Duties enumerated.--The ~~Department of Revenue~~ DEPARTMENT <—
9 shall:

10 (1) In the manner provided by law, promulgate the
11 regulations necessary to implement section 5 3 (relating to <—
12 organ and bone marrow donor tax credit).

13 ~~(2) Publish as a notice in the Pennsylvania Bulletin~~ <—

14 (2) CREATE AND PUBLISH forms upon which taxpayers may <—
15 apply for the tax credit authorized by this act.

16 (3) Within five months after the close of any calendar
17 year during which tax credits granted pursuant to this act
18 were used, furnish to the members of the General Assembly an
19 annual report providing as to each business firm which used
20 tax credits during the preceding calendar year pursuant to
21 this act, the employer's name, address, standard industrial
22 classification code and the amount of tax credits granted.

23 (b) Certain provisions not to apply.--The provisions of
24 ~~section~~ SECTIONS 353(F) AND 408(b) of the act of March 4, 1971 <—
25 (P.L.6, No.2), known as the Tax Reform Code of 1971, relating to
26 confidentiality of information, and any other provisions of law
27 preventing the disclosure of information required under
28 subsection (a)(3), shall not apply when the information is
29 divulged for the purposes of subsection (a)(3).

30 SECTION 5. PROCEDURES. <—

1 (A) DEADLINE FOR FILING APPLICATIONS.--APPLICATIONS FOR TAX
2 CREDITS SHALL BE FILED NOT LATER THAN THE FIFTEENTH DAY OF THE
3 FOURTH MONTH FOLLOWING THE CLOSE OF THE BUSINESS FIRM'S TAXABLE
4 YEAR.

5 (B) NOTIFICATION OF TAX CREDIT AUTHORIZATION AND INCOMPLETE
6 APPLICATIONS.--

7 (1) THE DEPARTMENT SHALL NOTIFY THE BUSINESS FIRM
8 REGARDING THE AUTHORIZATION OF TAX CREDITS, INCLUDING THE
9 AMOUNT OF THE CREDIT AVAILABLE.

10 (2) THE DEPARTMENT MAY RETURN AN INCOMPLETE APPLICATION
11 TO THE BUSINESS FIRM OR REQUEST ADDITIONAL INFORMATION,
12 DOCUMENTS OR SIGNATURES FROM THE BUSINESS FIRM.

13 (3) AN APPLICATION SHALL BE COMPLETE AND PROCESSIBLE
14 ONLY IF IT IS SIGNED BY AN AUTHORIZED REPRESENTATIVE OF THE
15 BUSINESS FIRM AND CONTAINS THE INDIVIDUAL'S OR ENTITY'S NAME,
16 IDENTIFYING NUMBERS, ADDRESS AND SUFFICIENT PROOF, WHICH THE
17 DEPARTMENT MAY REQUIRE AT ITS DISCRETION, INCLUDING WRITTEN
18 VERIFICATION BY A PHYSICIAN OR SIMILAR DOCUMENTATION OF THE
19 LENGTH AND PURPOSE OF THE DONOR'S LEAVE AND THE AMOUNT OF THE
20 EMPLOYEE'S COMPENSATION AND COSTS ASSOCIATED WITH TEMPORARY
21 REPLACEMENT HELP AND PROOF THAT TEMPORARY REPLACEMENT HELP IS
22 NEEDED BECAUSE OF THE DONOR'S LEAVE.

23 (C) APPEALS.--APPEALS FROM DETERMINATIONS MADE PURSUANT TO
24 THIS ACT SHALL BE MADE THROUGH THE ADMINISTRATIVE PROVISIONS OF
25 THE ACT OF MARCH 4, 1971 (P.L.6, NO.2), KNOWN AS THE TAX REFORM
26 CODE OF 1971, APPLICABLE TO THE PARTICULAR TAXES AGAINST WHICH
27 THE BUSINESS FIRM OR ITS MEMBERS, SHAREHOLDERS OR BENEFICIARIES
28 CLAIM SUCH CREDITS.

29 Section 7 6. Applicability.

30 This act shall apply to tax years commencing on or after

1 January 1, ~~2005~~ 2006, THROUGH ANY TAXABLE YEAR COMMENCING <—
2 WITHIN 2010 AND CARRYOVER CREDITS PROVIDED FOR IN SECTION 3(C)
3 MAY BE USED AFTER 2010.

4 Section 8 7. Effective date. <—

5 This act shall take effect immediately.