



Legislation Details (With Text)

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**Title:** Resolution calling upon United States Food and Drug Administration to remove any blood donation restrictions based on sexual orientation

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Res. No. 816

Resolution calling upon United States Food and Drug Administration to remove any blood donation restrictions based on sexual orientation

By Council Members Dromm, Johnson, Mendez, Constantinides, Richards, Rose, Chin, Rosenthal, Rodriguez and Levin

Whereas, The United States Food and Drug Administration (FDA) currently does not permit the donation of blood by men who have had sex with other men (MSM) at any time since 1977; and

Whereas, The ban on MSM donating blood was enacted in 1983, when there was very little information on HIV/AIDS and even less information on care and treatment; and

Whereas, There have been significant advancements in science, technology and medical developments relating to HIV and AIDS over the last thirty years; and

Whereas, Several advanced testing methods for HIV can detect the presence of HIV in a donor's blood sample in approximately 7-10 days after infection; and

Whereas, Numerous public health groups including the American Red Cross, the American Association

of Blood Banks, America's Blood Centers, the American Medical Association (AMA) and leading LGBT and HIV/AIDS organizations have urged that the FDA's lifetime restriction be revised; and

Whereas, The AMA has called for individual testing assessments instead of a blanket policy based on sexual orientation and has condemned the lifetime ban as "discriminatory"; and

Whereas, The New York Blood Center (NYBC) has alerted the public of blood shortages in New York and the Mayor of New York City Bill de Blasio issued a statement in January urging 'healthy New Yorkers' to donate; and

Whereas, The FDA, in December 2014, announced the agency would begin the process of shifting from a complete ban on MSM to donate blood to a one-year deferral period since last male-to-male sexual contact; and

Whereas, The new deferral period essentially requires gay and bisexual men to remain celibate for a minimum of one year in order to donate blood, which in practicality prevents about half the blood donor population of sexually active gay men from donating; and

Whereas, The proposed new FDA guidelines also address gender for the first time, stating that gender will be "self-identified and self-reported" but also notes that, "In instances where a donor has asserted a change in gender identification, medical directors may exercise discretion with regard to donor eligibility"; and

Whereas, Transgender advocates have found that in practice the current lack of policy has led all transgender individuals to be treated as MSM and, therefore, banned from donating and the proposed policy change does not provide clarification for potential transgender donors; and

Whereas, While the majority of men's health groups hailed the proposed amendments in the new revised policy, they assert that these changes do not align with the latest developments in science; and

Whereas, GMHC, a New York City provider of HIV/AIDS prevention, care and advocacy alleges that the policy is based not on the actual risk assessments, but on other factors such as stigma, gender identity and sexual orientation; and

Whereas, A recent article released in the Journal of the American Medical Association states that a twelve month deferral is “equally arbitrary” to a lifetime ban and that sexual orientation should not be a disqualifier, but a component of an individualized risk assessment; and

Whereas, The FDA does not provide sufficient reasoning and data for how a one-year deferral period for MSM has been decided; and

Whereas, HIV testing methods such as nucleic testing and antibody testing are already in use to test every single blood sample before transfusion in the United States; and

Whereas, According to the Williams Institute at the University of California, Los Angeles, with a one year deferral period, an estimated 185,800 additional men are likely to donate, and this number would almost double to 360,600 in case of a complete lifting of the ban; and

Whereas, The Williams Institute estimates that lifting the ban on MSM donors could help save the lives of more than a million people; and

Whereas, Countries like Chile, Mexico, Italy, Portugal, Russia, Spain, Uruguay and South Africa all have no deferral periods based on sexual orientation, though their potential donors could be screened for high-risk sexual practices; now, therefore, be it

Resolved, That the Council of the City of New York calls upon the United States Food and Drug Administration to remove any blood donation restrictions based on sexual orientation.

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