

7103--A

Cal. No. 876

I N S E N A T E

April 27, 2012

Introduced by Sens. CARLUCCI, GRISANTI, KLEIN, SAVINO, VALESKY -- read twice and ordered printed, and when printed to be committed to the Committee on Health -- reported favorably from said committee, ordered to first and second report, ordered to a third reading, amended and ordered reprinted, retaining its place in the order of third reading

AN ACT to amend the public health law and the vehicle and traffic law, in relation to establishing Lauren's law; and providing for the repeal of such provisions upon expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. Short title. This act shall be known and may be cited as
2 "Lauren's law".
3 S 2. Subdivision 2 of section 4310 of the public health law, as
4 amended by chapter 161 of the laws of 2010, is amended to read as
5 follows:
6 2. Such registration of consent to make an anatomical gift can be made
7 through (a) indication made on the application or renewal form of a
8 license, (b) indication made on a non-driver identification card appli-
9 cation or renewal form, (c) enrolling in the registry website maintained
10 by the department, which may include using an electronic signature under
11 regulations of the commissioner and subject to article three of the
12 state technology law, (d) indication made on a voter registration form
13 pursuant to subdivision five of section 5-210 of the election law, or
14 (e) through any other method identified by the commissioner. WHERE
15 REQUIRED BY LAW FOR CONSENT FORMS DESCRIBED IN PARAGRAPHS (A) AND (B) OF
16 THIS SUBDIVISION, THE COMMISSIONER SHALL ENSURE THAT SPACE IS PROVIDED
17 ON ANY CONSENT FORM SO THAT THE APPLICANT SHALL REGISTER OR DECLINE
18 REGISTRATION IN THE DONATE LIFE REGISTRY FOR ORGAN AND TISSUE DONATIONS
19 UNDER THIS SECTION AND THAT THE FOLLOWING IS STATED ON THE FORM IN CLEAR
20 AND CONSPICUOUS TYPE:
21 "YOU MUST FILL OUT THE FOLLOWING SECTION: WOULD YOU LIKE TO BE ADDED
22 TO THE DONATE LIFE REGISTRY? CHECK BOX FOR 'YES' OR 'SKIP THIS QUES-
23 TION'."

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets
[] is old law to be omitted.

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1 THE COMMISSIONER SHALL NOT MAINTAIN RECORDS OF ANY PERSON WHO CHECKS
2 "SKIP THIS QUESTION". FAILURE TO CHECK A BOX SHALL NOT IMPAIR THE
3 VALIDITY OF AN APPLICATION, AND FAILURE TO CHECK "YES" OR CHECKING "SKIP
4 THIS QUESTION" SHALL NOT BE CONSTRUED TO IMPLY A WISH NOT TO DONATE. IN
5 THE CASE OF AN APPLICANT UNDER EIGHTEEN YEARS OF AGE, CHECKING "YES"
6 SHALL NOT CONSTITUTE CONSENT TO MAKE AN ANATOMICAL GIFT OR REGISTRATION
7 IN THE DONATE LIFE REGISTRY. WHERE AN APPLICANT HAS PREVIOUSLY CONSENTED
8 TO MAKE AN ANATOMICAL GIFT OR REGISTERED IN THE DONATE LIFE REGISTRY,
9 CHECKING "SKIP THIS QUESTION" OR FAILING TO CHECK A BOX SHALL NOT IMPAIR
10 THAT CONSENT OR REGISTRATION. The registration shall take effect upon
11 the [department sending] PROVISION OF written OR ELECTRONIC notice of
12 the registration to the person enrolling in the registry. In making
13 regulations on using an electronic signature for a registration of
14 consent, the commissioner shall consult with the director of the office
15 [of] FOR technology.

16 S 3. Subdivision 5 of section 4303 of the public health law, as added
17 by chapter 466 of the laws of 1970, is amended to read as follows:

18 5. Any gift by a person designated in subdivision two of section four
19 thousand three hundred one of this article shall be by a document signed
20 by him OR HER or made by his OR HER telegraphic, recorded telephonic, or
21 other recorded message. WHERE A GIFT IS MADE UNDER THIS SUBDIVISION,
22 EITHER: (A) THE DONOR SHALL INDICATE IN THE DOCUMENT OR MESSAGE THAT HE
23 OR SHE HAS NO ACTUAL NOTICE OF CONTRARY INDICATIONS BY THE DECEDENT AND
24 NO REASON TO BELIEVE THAT AN ANATOMICAL GIFT IS CONTRARY TO THE
25 DECEDENT'S RELIGIOUS OR MORAL BELIEFS; OR (B) AN AGENT OF THE FEDERALLY
26 DESIGNATED ORGAN PROCUREMENT ORGANIZATION OR OF THE DONEE SHALL MAKE
27 REASONABLE EFFORT TO INQUIRE OF THE DONOR OR OTHERWISE DETERMINE THAT
28 THE DONOR HAS NO ACTUAL NOTICE OF CONTRARY INDICATIONS BY THE DECEDENT
29 AND NO REASON TO BELIEVE THAT AN ANATOMICAL GIFT IS CONTRARY TO THE
30 DECEDENT'S RELIGIOUS OR MORAL BELIEFS.

31 S 4. Subdivision 2 of section 490 of the vehicle and traffic law, as
32 amended by chapter 575 of the laws of 2006, is amended to read as
33 follows:

34 2. Application. Any person to whom a driver's license or learner's
35 permit has not been issued by the commissioner, or whose driver's
36 license or learner's permit is expired, suspended, revoked or surren-
37 dered, may make application to the commissioner for the issuance of an
38 identification card. THE COMMISSIONER SHALL ENSURE THAT SPACE IS
39 PROVIDED ON THE APPLICATION SO THAT THE APPLICANT SHALL REGISTER OR
40 DECLINE REGISTRATION IN THE DONATE LIFE REGISTRY FOR ORGAN AND TISSUE
41 DONATIONS PURSUANT TO SECTION FORTY-THREE HUNDRED TEN OF THE PUBLIC
42 HEALTH LAW AND THAT THE FOLLOWING IS STATED ON THE APPLICATION IN CLEAR
43 AND CONSPICUOUS TYPE:

44 "YOU MUST FILL OUT THE FOLLOWING SECTION: WOULD YOU LIKE TO BE ADDED
45 TO THE DONATE LIFE REGISTRY? CHECK BOX FOR 'YES' OR 'SKIP THIS QUES-
46 TION'."

47 THE COMMISSIONER OF THE DEPARTMENT OF HEALTH SHALL NOT MAINTAIN
48 RECORDS OF ANY PERSON WHO CHECKS "SKIP THIS QUESTION". FAILURE TO CHECK
49 A BOX SHALL NOT IMPAIR THE VALIDITY OF AN APPLICATION, AND FAILURE TO
50 CHECK "YES" OR CHECKING "SKIP THIS QUESTION" SHALL NOT BE CONSTRUED TO
51 IMPLY A WISH NOT TO DONATE. IN THE CASE OF AN APPLICANT UNDER EIGHTEEN
52 YEARS OF AGE, CHECKING "YES" SHALL NOT CONSTITUTE CONSENT TO MAKE AN
53 ANATOMICAL GIFT OR REGISTRATION IN THE DONATE LIFE REGISTRY. WHERE AN
54 APPLICANT HAS PREVIOUSLY CONSENTED TO MAKE AN ANATOMICAL GIFT OR REGIS-
55 TERED IN THE DONATE LIFE REGISTRY, CHECKING "SKIP THIS QUESTION" OR
56 FAILING TO CHECK A BOX SHALL NOT IMPAIR THAT CONSENT OR REGISTRATION.

1 S 5. Subdivision 1 of section 502 of the vehicle and traffic law, as
2 amended by section 1 of part D of chapter 58 of the laws of 2012, is
3 amended to read as follows:

4 1. Application for license. Application for a driver's license shall
5 be made to the commissioner. The fee prescribed by law may be submitted
6 with such application. The applicant shall furnish such proof of identi-
7 ty, age, and fitness as may be required by the commissioner. The commis-
8 sioner may also provide that the application procedure shall include the
9 taking of a photo image or images of the applicant in accordance with
10 rules and regulations prescribed by the commissioner. In addition, the
11 commissioner also shall require that the applicant provide his or her
12 social security number and SHALL provide space on the application so
13 that the applicant may register in the New York state organ and tissue
14 donor registry under section forty-three hundred ten of the public
15 health law[.] WITH THE FOLLOWING STATED ON THE APPLICATION IN CLEAR AND
16 CONSPICUOUS TYPE:

17 "YOU MUST FILL OUT THE FOLLOWING SECTION: WOULD YOU LIKE TO BE ADDED
18 TO THE DONATE LIFE REGISTRY? CHECK BOX FOR 'YES' OR 'SKIP THIS QUES-
19 TION'."

20 THE COMMISSIONER OF THE DEPARTMENT OF HEALTH SHALL NOT MAINTAIN
21 RECORDS OF ANY PERSON WHO CHECKS "SKIP THIS QUESTION". FAILURE TO CHECK
22 A BOX SHALL NOT IMPAIR THE VALIDITY OF AN APPLICATION, AND FAILURE TO
23 CHECK "YES" OR CHECKING "SKIP THIS QUESTION" SHALL NOT BE CONSTRUED TO
24 IMPLY A WISH NOT TO DONATE. IN THE CASE OF AN APPLICANT UNDER EIGHTEEN
25 YEARS OF AGE, CHECKING "YES" SHALL NOT CONSTITUTE CONSENT TO MAKE AN
26 ANATOMICAL GIFT OR REGISTRATION IN THE DONATE LIFE REGISTRY. WHERE AN
27 APPLICANT HAS PREVIOUSLY CONSENTED TO MAKE AN ANATOMICAL GIFT OR REGIS-
28 TERED IN THE DONATE LIFE REGISTRY, CHECKING "SKIP THIS QUESTION" OR
29 FAILING TO CHECK A BOX SHALL NOT IMPAIR THAT CONSENT OR REGISTRATION. In
30 addition, an applicant for a commercial driver's license who will oper-
31 ate a commercial motor vehicle in interstate commerce shall certify that
32 such applicant meets the requirements to operate a commercial motor
33 vehicle, as set forth in public law 99-570, title XII, and title 49 of
34 the code of federal regulations, and all regulations promulgated by the
35 United States secretary of transportation under the hazardous materials
36 transportation act. In addition, an applicant for a commercial driver's
37 license shall submit a medical certificate at such intervals as required
38 by the federal motor carrier safety improvement act of 1999 and Part
39 383.71(h) of title 49 of the code of federal regulations relating to
40 medical certification and in a manner prescribed by the commissioner.
41 For purposes of this section and sections five hundred three, five
42 hundred ten-a, and five hundred ten-aa of this title, the terms "medical
43 certificate" and "medical certification" shall mean a form substantially
44 in compliance with the form set forth in Part 391.43(h) of title 49 of
45 the code of federal regulations. Upon a determination that the holder of
46 a commercial driver's license has made any false statement, with respect
47 to the application for such license, the commissioner shall revoke such
48 license.

49 S 6. This act shall take effect one year after it shall have become a
50 law; provided that the commissioners of health and motor vehicles may
51 implement sections two, four and five of this act within their respec-
52 tive jurisdictions before that date; and provided, further, that the
53 provisions of this act shall expire and be deemed repealed three years
54 after such effective date.