

2015-2016 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2015

Introduced by M. of A. ROSENTHAL -- read once and referred to the
Committee on Transportation

AN ACT to amend the vehicle and traffic law, in relation to health care
proxy information on driver's licenses; and to repeal certain
provisions of such law relating thereto

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

1 Section 1. Subdivision 2 of section 490 of the vehicle and traffic
2 law, as amended by chapter 465 of the laws of 2012, is amended to read
3 as follows:
4 2. Application. Any person to whom a driver's license or learner's
5 permit has not been issued by the commissioner, or whose driver's
6 license or learner's permit is expired, suspended, revoked or surren-
7 dered, may make application to the commissioner for the issuance of an
8 identification card. The commissioner shall ensure that space is
9 provided on the application so that the applicant shall register or
10 decline registration in the donate life registry for organ and tissue
11 donations pursuant to section forty-three hundred ten of the public
12 health law and that the following is stated on the application in clear
13 and conspicuous type:
14 "You must fill out the following section: Would you like to be added
15 to the Donate Life Registry? Check box for 'yes' or 'skip this ques-
16 tion'."
17 The commissioner of the department of health shall not maintain
18 records of any person who checks "skip this question". Failure to check
19 a box shall not impair the validity of an application, and failure to
20 check "yes" or checking "skip this question" shall not be construed to
21 imply a wish not to donate. In the case of an applicant under eighteen
22 years of age, checking "yes" shall not constitute consent to make an
23 anatomical gift or registration in the donate life registry. Where an

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

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applicant has previously consented to make an anatomical gift or registered in the donate life registry, checking "skip this question" or failing to check a box shall not impair that consent or registration. ADDITIONALLY, THE COMMISSIONER SHALL ENSURE THAT SPACE IS PROVIDED ON THE APPLICATION SO THAT THE APPLICANT SHALL INDICATE A DECLARATION RELATING TO THE DESIGNATION OF A HEALTH CARE PROXY PURSUANT TO SECTION TWENTY-NINE HUNDRED EIGHTY-ONE OF THE PUBLIC HEALTH LAW AND THAT THE FOLLOWING IS TYPED IN CLEAR AND CONSPICUOUS TYPE:

"YOU MUST FILL OUT THE FOLLOWING SECTION: HAVE YOU COMPLETED A HEALTH CARE PROXY? CHECK BOX FOR 'YES' OR 'SKIP THIS QUESTION'." FOLLOWED BY A SPACE FOR THE HEALTH CARE AGENT'S NAME.

THE COMMISSIONER SHALL ALSO ENSURE THAT SPACE IS PROVIDED ON THE APPLICATION SO THAT THE APPLICANT SHALL INDICATE A DECLARATION RELATING TO THE USE OF LIFE-SUSTAINING TREATMENT AND THAT THE FOLLOWING IS TYPED IN CLEAR AND CONSPICUOUS TYPE:

"YOU MUST FILL OUT THE FOLLOWING SECTION: HAVE YOU COMPLETED A LIVING WILL? CHECK BOX FOR 'YES' OR 'SKIP THIS QUESTION'."

THE COMMISSIONER SHALL MAKE WHATEVER PROVISIONS ARE FEASIBLE AND DESIRABLE TO MAINTAIN AND ISSUE ALL SUITABLE DOCUMENTS REGARDING ADVANCED DIRECTIVES AT DRIVER'S LICENSE EXAMINING OFFICES.

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

2. Application. Any person to whom a driver's license or learner's permit has not been issued by the commissioner, or whose driver's license or learner's permit is expired, suspended, revoked or surrendered, may make application to the commissioner for the issuance of an identification card. ADDITIONALLY, THE COMMISSIONER SHALL ENSURE THAT SPACE IS PROVIDED ON THE APPLICATION SO THAT THE APPLICANT SHALL INDICATE A DECLARATION RELATING TO THE DESIGNATION OF A HEALTH CARE PROXY PURSUANT TO SECTION TWENTY-NINE HUNDRED EIGHTY-ONE OF THE PUBLIC HEALTH LAW AND THAT THE FOLLOWING IS TYPED IN CLEAR AND CONSPICUOUS TYPE:

"YOU MUST FILL OUT THE FOLLOWING SECTION: HAVE YOU COMPLETED A HEALTH CARE PROXY? CHECK BOX FOR 'YES' OR 'SKIP THIS QUESTION'." FOLLOWED BY A SPACE FOR THE HEALTH CARE AGENT'S NAME.

THE COMMISSIONER SHALL ALSO ENSURE THAT SPACE IS PROVIDED ON THE APPLICATION SO THAT THE APPLICANT SHALL INDICATE A DECLARATION RELATING TO THE USE OF LIFE-SUSTAINING TREATMENT AND THAT THE FOLLOWING IS TYPED IN CLEAR AND CONSPICUOUS TYPE:

"YOU MUST FILL OUT THE FOLLOWING SECTION: HAVE YOU COMPLETED A LIVING WILL? CHECK BOX FOR 'YES' OR 'SKIP THIS QUESTION'."

THE COMMISSIONER SHALL MAKE WHATEVER PROVISIONS ARE FEASIBLE AND DESIRABLE TO MAINTAIN AND ISSUE ALL SUITABLE DOCUMENTS REGARDING ADVANCED DIRECTIVES AT DRIVER'S LICENSE EXAMINING OFFICES.

S 3. Subparagraph (b) of subdivision 3 of section 490 of the vehicle and traffic law, as amended by chapter 429 of the laws of 2014, is amended to read as follows:

(b) The identification card shall contain a distinguishing number or mark and adequate space upon which an anatomical gift, pursuant to article forty-three of the public health law, A DECLARATION RELATING TO A HEALTH CARE PROXY, PURSUANT TO SECTION TWENTY-NINE HUNDRED EIGHTY-ONE OF THE PUBLIC HEALTH LAW, AND A DECLARATION RELATING TO THE USE OF LIFE-SUSTAINING TREATMENTS by the holder may be recorded and shall contain such other information and shall be issued in such form as the commissioner shall determine; provided, however, every identification card or renewal thereof issued to a person under the age of twenty-one

1 years shall have prominently imprinted thereon the statement "UNDER 21
2 YEARS OF AGE" in notably distinctive print or format. Provided, further,
3 however, that every identification card issued to an applicant who was a
4 member of the armed forces of the United States and received an honor-
5 able discharge or was released therefrom under honorable conditions
6 shall, upon his or her request and submission of proof as set forth
7 herein, contain a distinguishing mark, in such form as the commissioner
8 shall determine, indicating that he or she is a veteran. Such proof
9 shall consist of a certificate of release or discharge from active duty
10 including but not limited to a DD Form 214 or other proof satisfactory
11 to the commissioner. The commissioner shall not require fees for the
12 issuance of such identification cards or renewals thereof to persons
13 under twenty-one years of age which are different from the fees required
14 for the issuance of identification cards or renewals thereof to persons
15 twenty-one years of age or over, nor fees to persons requesting a veter-
16 an distinguishing mark which are different from fees that would other-
17 wise be required. Provided, however, that notwithstanding the provisions
18 of section four hundred ninety-one of this article, the commissioner
19 shall not require any fees for the duplication or amendment of an iden-
20 tification card prior to its renewal if such duplication or amendment
21 was solely for the purpose of adding a veteran distinguishing mark to
22 such identification card.

23 S 4. Subdivision 1 of section 502 of the vehicle and traffic law, as
24 separately amended by chapters 465 and 487 of the laws of 2012, is
25 REPEALED and a new subdivision 1 is added to read as follows:

26 1. APPLICATION FOR LICENSE. APPLICATION FOR A DRIVER'S LICENSE SHALL
27 BE MADE TO THE COMMISSIONER. THE FEE PRESCRIBED BY LAW MAY BE SUBMITTED
28 WITH SUCH APPLICATION. THE APPLICANT SHALL FURNISH SUCH PROOF OF IDENTI-
29 TY, AGE, AND FITNESS AS MAY BE REQUIRED BY THE COMMISSIONER. ELIGIBILITY
30 FOR A DRIVER'S LICENSE SHALL NOT BE CONDITIONED ON A PARTICULAR IMMI-
31 GRATION STATUS. THE COMMISSIONER MAY ALSO PROVIDE THAT THE APPLICATION
32 PROCEDURE SHALL INCLUDE THE TAKING OF A PHOTO IMAGE OR IMAGES OF THE
33 APPLICANT IN ACCORDANCE WITH RULES AND REGULATIONS PRESCRIBED BY THE
34 COMMISSIONER. IN ADDITION, THE COMMISSIONER ALSO SHALL REQUIRE THAT THE
35 APPLICANT PROVIDE HIS OR HER SOCIAL SECURITY NUMBER WHERE SUCH APPLICANT
36 IS A LEGAL IMMIGRANT AND SHALL PROVIDE SPACE ON THE APPLICATION SO THAT
37 THE APPLICANT MAY REGISTER IN THE NEW YORK STATE ORGAN AND TISSUE DONOR
38 REGISTRY UNDER SECTION FORTY-THREE HUNDRED TEN OF THE PUBLIC HEALTH LAW
39 WITH THE FOLLOWING STATED ON THE APPLICATION IN CLEAR AND CONSPICUOUS
40 TYPE:

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

44 THE COMMISSIONER OF THE DEPARTMENT OF HEALTH SHALL NOT MAINTAIN
45 RECORDS OF ANY PERSON WHO CHECKS "SKIP THIS QUESTION". FAILURE TO CHECK
46 A BOX SHALL NOT IMPAIR THE VALIDITY OF AN APPLICATION, AND FAILURE TO
47 CHECK "YES" OR CHECKING "SKIP THIS QUESTION" SHALL NOT BE CONSTRUED TO
48 IMPLY A WISH NOT TO DONATE. IN THE CASE OF AN APPLICANT UNDER EIGHTEEN
49 YEARS OF AGE, CHECKING "YES" SHALL NOT CONSTITUTE CONSENT TO MAKE AN
50 ANATOMICAL GIFT OR REGISTRATION IN THE DONATE LIFE REGISTRY. WHERE AN
51 APPLICANT HAS PREVIOUSLY CONSENTED TO MAKE AN ANATOMICAL GIFT OR REGIS-
52 TERED IN THE DONATE LIFE REGISTRY, CHECKING "SKIP THIS QUESTION" OR
53 FAILING TO CHECK A BOX SHALL NOT IMPAIR THAT CONSENT OR REGISTRATION. IN
54 ADDITION, THE COMMISSIONER ALSO SHALL REQUIRE THAT SPACE SHALL BE
55 PROVIDED ON THE APPLICATION SO THAT THE APPLICANT MAY REQUEST A NOTATION
56 UPON SUCH LICENSE THAT HE OR SHE IS A VETERAN OF THE UNITED STATES ARMED

FORCES. ADDITIONALLY, THE COMMISSIONER SHALL ENSURE THAT SPACE IS PROVIDED ON THE APPLICATION SO THAT THE APPLICANT SHALL INDICATE A DECLARATION RELATING TO THE DESIGNATION OF A HEALTH CARE PROXY PURSUANT TO SECTION TWENTY-NINE HUNDRED EIGHTY-ONE OF THE PUBLIC HEALTH LAW AND THAT THE FOLLOWING IS TYPED IN CLEAR AND CONSPICUOUS TYPE:

"YOU MUST FILL OUT THE FOLLOWING SECTION: HAVE YOU COMPLETED A HEALTH CARE PROXY? CHECK BOX FOR 'YES' OR 'SKIP THIS QUESTION'." FOLLOWED BY A SPACE FOR THE HEALTH CARE AGENT'S NAME.

THE COMMISSIONER SHALL ALSO ENSURE THAT SPACE IS PROVIDED ON THE APPLICATION SO THAT THE APPLICANT SHALL INDICATE A DECLARATION RELATING TO THE USE OF LIFE-SUSTAINING TREATMENT AND THAT THE FOLLOWING IS TYPED IN CLEAR AND CONSPICUOUS TYPE:

"YOU MUST FILL OUT THE FOLLOWING SECTION: HAVE YOU COMPLETED A LIVING WILL? CHECK BOX FOR 'YES' OR 'SKIP THIS QUESTION'."

THE COMMISSIONER SHALL MAKE WHATEVER PROVISIONS ARE FEASIBLE AND DESIRABLE TO MAINTAIN AND ISSUE ALL SUITABLE DOCUMENTS REGARDING ADVANCED DIRECTIVES AT DRIVER'S LICENSE EXAMINING OFFICES. IN ADDITION, AN APPLICANT FOR A COMMERCIAL DRIVER'S LICENSE WHO WILL OPERATE A COMMERCIAL MOTOR VEHICLE IN INTERSTATE COMMERCE SHALL CERTIFY THAT SUCH APPLICANT MEETS THE REQUIREMENTS TO OPERATE A COMMERCIAL MOTOR VEHICLE, AS SET FORTH IN PUBLIC LAW 99-570, TITLE XII, AND TITLE 49 OF THE CODE OF FEDERAL REGULATIONS, AND ALL REGULATIONS PROMULGATED BY THE UNITED STATES SECRETARY OF TRANSPORTATION UNDER THE HAZARDOUS MATERIALS TRANSPORTATION ACT. IN ADDITION, AN APPLICANT FOR A COMMERCIAL DRIVER'S LICENSE SHALL SUBMIT A MEDICAL CERTIFICATE AT SUCH INTERVALS AS REQUIRED BY THE FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART 383.71(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS RELATING TO MEDICAL CERTIFICATION AND IN A MANNER PRESCRIBED BY THE COMMISSIONER. FOR PURPOSES OF THIS SECTION AND SECTIONS FIVE HUNDRED THREE, FIVE HUNDRED TEN-A, AND FIVE HUNDRED TEN-AA OF THIS TITLE, THE TERMS "MEDICAL CERTIFICATE" AND "MEDICAL CERTIFICATION" SHALL MEAN A FORM SUBSTANTIALLY IN COMPLIANCE WITH THE FORM SET FORTH IN PART 391.43(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS. UPON A DETERMINATION THAT THE HOLDER OF A COMMERCIAL DRIVER'S LICENSE HAS MADE ANY FALSE STATEMENT, WITH RESPECT TO THE APPLICATION FOR SUCH LICENSE, THE COMMISSIONER SHALL REVOKE SUCH LICENSE.

S 5. Subdivision 1 of section 502 of the vehicle and traffic law, as added by section four of this act, is amended to read as follows:

1. Application for license. Application for a driver's license shall be made to the commissioner. The fee prescribed by law may be submitted with such application. The applicant shall furnish such proof of identity, age, and fitness as may be required by the commissioner. Eligibility for a driver's license shall not be conditioned on a particular immigration status. The commissioner may also provide that the application procedure shall include the taking of a photo image or images of the applicant in accordance with rules and regulations prescribed by the commissioner. In addition, the commissioner also shall require that the applicant provide his or her social security number where such applicant is a legal immigrant and [shall] provide space on the application so that the applicant may register in the New York state organ and tissue donor registry under section forty-three hundred ten of the public health law [with the following stated on the application in clear and conspicuous type:

"You must fill out the following section: Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'."

1 The commissioner of the department of health shall not maintain
2 records of any person who checks "skip this question". Failure to check
3 a box shall not impair the validity of an application, and failure to
4 check "yes" or checking "skip this question" shall not be construed to
5 imply a wish not to donate. In the case of an applicant under eighteen
6 years of age, checking "yes" shall not constitute consent to make an
7 anatomical gift or registration in the donate life registry. Where an
8 applicant has previously consented to make an anatomical gift or regis-
9 tered in the donate life registry, checking "skip this question" or
10 failing to check a box shall not impair that consent or registration].
11 In addition, the commissioner also shall require that space shall be
12 provided on the application so that the applicant may request a notation
13 upon such license that he or she is a veteran of the United States armed
14 forces. Additionally, the commissioner shall ensure that space is
15 provided on the application so that the applicant shall indicate a
16 declaration relating to the designation of a health care proxy pursuant
17 to section twenty-nine hundred eighty-one of the public health law and
18 that the following is typed in clear and conspicuous type:

19 "You must fill out the following section: Have you completed a health
20 care proxy? Check box for 'yes' or 'skip this question'." Followed by a
21 space for the health care agent's name.

22 The commissioner shall also ensure that space is provided on the
23 application so that the applicant shall indicate a declaration relating
24 to the use of life-sustaining treatment and that the following is typed
25 in clear and conspicuous type:

26 "You must fill out the following section: Have you completed a living
27 will? Check box for 'yes' or 'skip this question'."

28 The commissioner shall make whatever provisions are feasible and
29 desirable to maintain and issue all suitable documents regarding
30 advanced directives at driver's license examining offices. In addition,
31 an applicant for a commercial driver's license who will operate a
32 commercial motor vehicle in interstate commerce shall certify that such
33 applicant meets the requirements to operate a commercial motor vehicle,
34 as set forth in public law 99-570, title XII, and title 49 of the code
35 of federal regulations, and all regulations promulgated by the United
36 States secretary of transportation under the hazardous materials trans-
37 portation act. In addition, an applicant for a commercial driver's
38 license shall submit a medical certificate at such intervals as required
39 by the federal motor carrier safety improvement act of 1999 and Part
40 383.71(h) of title 49 of the code of federal regulations relating to
41 medical certification and in a manner prescribed by the commissioner.
42 For purposes of this section and sections five hundred three, five
43 hundred ten-a, and five hundred ten-aa of this title, the terms "medical
44 certificate" and "medical certification" shall mean a form substantially
45 in compliance with the form set forth in Part 391.43(h) of title 49 of
46 the code of federal regulations. Upon a determination that the holder of
47 a commercial driver's license has made any false statement, with respect
48 to the application for such license, the commissioner shall revoke such
49 license.

50 S 6. Paragraph (a) of subdivision 1 of section 504 of the vehicle and
51 traffic law, as separately amended by chapters 568 and 639 of the laws
52 of 2006, is amended to read as follows:

53 (a) Every license or renewal thereof shall contain a distinguishing
54 mark and adequate space upon which an anatomical gift, pursuant to
55 section forty-three hundred ten of the public health law, by the licen-
56 see shall be recorded and shall contain such other information and shall

1 be issued in such form as the commissioner shall determine; provided,
2 however, every license or renewal thereof issued to a person under the
3 age of twenty-one years shall have prominently imprinted upon it the
4 statement "UNDER 21 YEARS OF AGE" in notably distinctive print or
5 format; provided further, however, every license or renewal thereof
6 issued to a person making an anatomical gift shall have prominently
7 printed upon the front of such license or renewal thereof the statement
8 "ORGAN DONOR" in notably distinctive print or format; PROVIDED THAT
9 EVERY LICENSE SHALL HAVE IMPRINTED ON THE BACK "DESIGNATED HEALTH CARE
10 AGENT:" FOLLOWED BY A SPACE FOR THE HEALTH CARE AGENT'S NAME AND CONTACT
11 INFORMATION; AND PROVIDED FURTHER THAT EVERY LICENSE SHALL HAVE
12 IMPRINTED ON THE BACK "EXECUTED DECLARATION RELATING TO LIFE-SUSTAINING
13 TREATMENT:" FOLLOWED BY A SPACE TO MARK THE APPROPRIATE BOX "YES" OR
14 "NO". The commissioner shall not require fees for the issuance of such
15 licenses or renewals thereof to persons under twenty-one years of age or
16 to persons making an anatomical gift which are different from the fees
17 required for the issuance of licenses or renewals thereof to persons
18 twenty-one years of age or over or to persons not making an anatomical
19 gift.

20 S 7. This act shall take effect immediately; provided, however, that
21 the amendments to subdivision 2 of section 490 of the vehicle and traf-
22 fic law made by section one of this act shall be subject to the expira-
23 tion and reversion of such subdivision pursuant to section 6 of chapter
24 465 of the laws of 2012, as amended, when upon such date the provisions
25 of section two of this act shall take effect; and provided further that
26 section four of this act shall take effect on the one hundred eightieth
27 day after it shall have become a law, and section five of this act shall
28 take effect October 3, 2016.