S T A T E O F N E W Y O R K

5402--A

2011-2012 Regular Sessions

I N A S S E M B L Y

February 18, 2011

Introduced by M. of A. ROBINSON, ORTIZ, SCHIMEL, PEOPLES-STOKES, REILLY, N. RIVERA, CAHILL, STEVENSON, ROBERTS, TITONE -- Multi-Sponsored by -- M. of A. BOYLAND, COOK -- read once and referred to the Committee on Transportation -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, the state finance law and the public health law, in relation to implementing the "New York state organ donor awareness and education act"

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

Section 1. Short title. This act shall be known and may be cited as the "New York state organ donor awareness and education act".

S 2. Paragraph b of subdivision 1 of section 401 of the vehicle and traffic law, as amended by chapter 222 of the laws of 1996, is amended to read as follows:

b. Every owner of a motor vehicle which shall be operated or driven upon the public highways of this state shall, except as otherwise expressly provided, cause to be presented, by mail or otherwise, to the office or a branch office of the commissioner, or to any agent of the commissioner, constituted as provided in this chapter, an application for registration addressed to the commissioner, and on a blank to be prepared under the direction of and furnished by the commissioner for that purpose, containing: (a) a brief description of the motor vehicle to be registered, including the name and factory number of such vehicle, and such other facts as the commissioner shall require; (b) the weight of the vehicle upon which the registration fee is based if the fee is based on weight; (c) the name and residence, including county of the owner of such motor vehicle; (C-1) WITH RESPECT TO VEHICLES SUBJECT TO REGISTRATION PURSUANT TO SUBDIVISION SIX, PARAGRAPH ONE OF SCHEDULE B AND SCHEDULE C OF SUBDIVISION SEVEN OF THIS SECTION, SPACE ON THE APPLICATION AND RENEWAL APPLICATION TO ENABLE THE APPLICANT TO REGISTER OR DECLINE REGISTRATION IN THE NEW YORK STATE DONATE LIFE REGISTRY PURSUANT TO SECTION FORTY-THREE HUNDRED TEN OF THE PUBLIC HEALTH LAW, AS INDI-

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

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CATED BY CHECKING "YES" OR "NO" TO REGISTRATION IN SUCH REGISTRY; SPACE FOR THE APPLICANT'S SIGNATURE WITHIN A DESIGNATED AREA (SEPARATE FROM THE FINAL SIGNATURE CERTIFYING THE VALIDITY OF THE INFORMATION PROVIDED IN THE OVERALL APPLICATION FOR REGISTRATION); AND WITH SPACE FOR SPECIFIC ANATOMICAL GIFTS, WITH THE FOLLOWING STATEMENT IN CLEAR, CONSPICUOUS AND BOLDFACE TYPE IN CAPITAL LETTERS: "ORGAN DONOR CONSENT STATEMENT: IF ON THIS FORM YOU MARKED "YES" TO REGISTER AS AN ORGAN AND TISSUE DONOR, YOU ARE LEGALLY AUTHORIZING THE RECOVERY OF ANY AND ALL ORGANS AND/OR TISSUES IN THE EVENT OF YOUR DEATH AND YOUR NAME WILL BE ADDED TO THE NEW YORK STATE DONATE LIFE REGISTRY. IF YOU WISH TO DONATE ONLY SPECIFIC ORGANS AND/OR TISSUES YOU MUST SPECIFY THOSE IN THE SPACE PROVIDED BELOW. REGISTERING AS A DONOR WILL NOT AFFECT YOUR MEDICAL TREATMENT IN ANY WAY. AS OUTLINED IN S 4301 OF THE NEW YORK STATE PUBLIC HEALTH LAW, YOUR AUTHORIZATION IS LEGALLY BINDING AND, UNLESS THE DONOR IS UNDER AGE 18, YOUR DECISION DOES NOT REQUIRE THE CONSENT OF ANY OTHER PERSON. FOR REGISTERED DONORS UNDER AGE 18, THE LEGAL GUARDIAN SHALL MAKE THE FINAL DONATION DECISION."; (C-2) DECLINING TO ENROLL IN THE NEW YORK STATE DONATE LIFE REGISTRY UNDER THIS SECTION BY MARKING THE "NO" BOX ON THE APPLICATION AND SEPARATELY SIGNING SHALL BE DEEMED A SHOWING THAT THE DONOR HAS REVOKED THE AUTHORIZATION PURSUANT TO SUBDIVISION ONE OF SECTION FORTY-THREE HUNDRED ONE OF THE PUBLIC HEALTH LAW, WHICH THE COMMISSIONER SHALL IMMEDIATELY REPORT TO THE DEPARTMENT OF HEALTH; (d) provided that, if such motor vehicle is used or to be used as an omnibus, the applicant also shall so certify, and in the case of an omnibus also certify as to the seating capacity, and if the omnibus is to be operated wholly within a municipality pursuant to a franchise other than a franchise express or implied in articles of incorporation upon certain streets designated in such franchise, those facts shall also be certified, and a certified copy of such franchise furnished to the commissioner; (e) provided, that, if such motor vehicle is an altered livery, the applicant shall so furnish a certified copy of the length of the center panel of such vehicle, provided, however, that the commissioner shall require such proof, as he may determine is necessary, in the application for registration and provided further, if the center panel of such vehicle exceeds one hundred inches, the commissioner shall require proof that such vehicle is in compliance with all applicable federal and state motor vehicle safety standards; and (f) such additional facts or evidence as the commissioner may require in connection with the application for registration. Every owner of a trailer shall also make application for the registration thereof in the manner herein provided for an application to register a motor vehicle, but shall contain a statement showing the manufacturer's number or other identification satisfactory to the commissioner and no number plate for a trailer issued under the provisions of subdivision three of section four hundred two of this [chapter] ARTICLE shall be transferred to or used upon any other trailer than the one for which number plate is issued. The commissioner shall require proof, in the application for registration, or otherwise, as such commissioner may determine, that the motor vehicle for which registration is applied for is equipped with lights conforming in all respects to the requirements of this chapter, and no motor vehicle shall be registered unless it shall appear by such proofs that such motor vehicle is equipped with proper lights as aforesaid. The said application shall contain or be accompanied by such evidence of the ownership of the motor vehicle described in the application as may be required by the commissioner or his agent and which, with respect to new vehicles, shall include, unless otherwise specifically provided by the

commissioner, the manufacturer's statement of origin. Applications received by an agent of the commissioner shall be forwarded to the commissioner as he shall direct for filing. No application for registration shall be accepted unless the applicant is at least sixteen years of age.

S 3. Subdivision 3 of section 401 of the vehicle and traffic law is amended by adding a new paragraph e to read as follows:

E. IN PROCESSING ANY APPLICATION FOR A CERTIFICATE OF REGISTRATION OF RENEWAL THEREOF PURSUANT TO THIS ARTICLE OR TO TITLE ELEVEN OF THIS CHAPTER, THE COMMISSIONER SHALL PROVIDE APPLICANTS WITH INFORMATIONAL MATERIALS DESCRIBING ORGAN AND TISSUE DONATION, THE NEW YORK STATE DONATE LIFE REGISTRY FOR ORGAN AND TISSUE DONATIONS (WITH CURRENT CONTACT INFORMATION FOR SUCH REGISTRY INCLUDING ITS MAILING AND WEBSITE ADDRESSES), AND THE "LIFE PASS IT ON" TRUST FUND. SUCH INFORMATIONAL MATERIALS SHALL BE DISTRIBUTED AT THE FIRST OPPORTUNITY AND PERIODICALLY THEREAFTER.

S 4. Paragraph a of subdivision 3 of section 401 of the vehicle and traffic law, as amended by section 1 of part H of chapter 59 of the laws of 2009, is amended to read as follows:

a. Upon filing of such application and the payment of the fee [hereinafter] AS provided IN THIS SECTION, the commissioner shall assign to such motor vehicle a distinctive number and, without expense to the applicant, issue and deliver in such manner as the commissioner may select to the owner a certificate of registration, in such form as the commissioner shall prescribe, and two number plates at a place within the state of New York named by the applicant in his or her application. EVERY CERTIFICATE OF REGISTRATION ISSUED FOR A VEHICLE REGISTERED PURSUANT TO SUBDIVISION SIX OR PARAGRAPH ONE OF SCHEDULE B AND SCHEDULE C OF SUBDIVISION SEVEN OF THIS SECTION TO A PERSON MAKING AN ANATOMICAL GIFT SHALL HAVE PROMINENTLY PRINTED UPON THE FRONT OF SUCH CERTIFICATE OF REGISTRATION OR RENEWAL THEREOF THE STATEMENT "ORGAN DONOR" IN NOTABLY DISTINCTIVE PRINT OR FORMAT. THE COMMISSIONER SHALL NOT REQUIRE FEES FOR THE ISSUANCE OF SUCH REGISTRATION OR RENEWAL THEREOF TO PERSONS MAKING AN ANATOMICAL GIFT WHICH ARE DIFFERENT FROM THE FEES REQUIRED FOR THE ISSUANCE OF REGISTRATIONS OR RENEWALS THEREOF TO PERSONS NOT MAKING AN ANATOMICAL GIFT. A number plate, within the meaning of this chapter, may, in the discretion of the commissioner, be a plate of a permanent nature, treated with reflectorized material according to specifications prescribed by the commissioner, and with a date tag attached to such plate or to the vehicle as prescribed by regulations of the commissioner indicating the validity of the plate during a certain period and the issuance of such a number plate with such date tag to a person possessing such a number plate shall be deemed the issuance of a number plate. An additional fee, not to exceed twenty-five dollars, shall be paid to the commissioner whenever a set of reflectorized number plates is issued for any vehicle for which a registration fee is normally charged except that, with respect to any number plate which is specifically requested by the applicant, such fee shall be paid to the commissioner upon approval of such request. In the event of the loss, mutilation or destruction of any certificate of registration, any number plate or set of number plates whether with or without a date tag or tags, or any date tag or set of date tags provided for in this article, the owner of a registered motor vehicle may file such statement and proof of the facts as the commissioner shall require, with a fee of three dollars, in the office of the commissioner, or, unless and until the commissioner shall otherwise direct, in the office of the agent who issued the certificate,

plate, plates, tag or tags and the commissioner or his or her agent, as the case may be, shall issue a duplicate or substitute. It shall be the duty of every owner holding a certificate of registration to notify the commissioner in writing of any change of residence of such person within ten days after such change occurs, and to inscribe on such certificate, in the place provided by the commissioner, a record of such change of residence.

S 5. Section 401 of the vehicle and traffic law is amended by adding a new subdivision 20 to read as follows:

20. THE COMMISSIONER IS DIRECTED TO DEVELOP REGISTRATION APPLICATION AND RENEWAL FORMS WHICH SHALL SOLICIT A VOLUNTARY TWO DOLLAR DONATION FROM PERSONS APPLYING FOR OR RENEWING A VEHICLE REGISTRATION AT THE TIME OF SUCH APPLICATION OR RENEWAL. OF MONIES COLLECTED PURSUANT TO THIS SUBDIVISION, THE FIRST ONE HUNDRED FIFTY THOUSAND DOLLARS SHALL BE RETAINED BY THE DEPARTMENT TO OFFSET ITS INITIAL PROGRAM COSTS. SUBSEQUENTLY, FIVE PERCENT OF ANY MONIES COLLECTED PURSUANT TO THIS SUBDIVISION SHALL BE RETAINED BY THE DEPARTMENT FOR CONTINUING ADMINISTRATIVE COSTS. THE REMAINDER OF SUCH MONIES COLLECTED PURSUANT TO THIS SUBDIVISION SHALL BE DEPOSITED IN THE "LIFE PASS IT ON" TRUST FUND ESTABLISHED PURSUANT TO SECTION NINETY-FIVE-D OF THE STATE FINANCE LAW, AS ADDED BY CHAPTER FOUR HUNDRED FIFTEEN OF THE LAWS OF TWO THOUSAND THREE.

S 6. Subdivision 1 of section 502 of the vehicle and traffic law, as amended by section 1 of part D of chapter 58 of the laws of 2012, 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. 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 and provide space on the application so that the applicant may register OR DECLINE REGISTRATION in the New York state organ and tissue donor registry under section forty-three hundred ten of the public health law, AS INDICATED BY CHECKING "YES" OR "NO" TO REGISTRATION IN SUCH REGISTRY TOGETHER WITH THE APPLICANT'S SIGNATURE WITHIN A DESIGNATED AREA (SEPARATE FROM THE FINAL SIGNATURE CERTIFYING THE VALIDITY OF THE INFORMATION PROVIDED IN THE OVERALL APPLICATION) TOGETHER WITH SPACE FOR SPECIFIC ANATOMICAL GIFTS AND THE FOLLOWING STATEMENT IN CLEAR, CONSPICUOUS AND BOLDFACE TYPE IN CAPITAL LETTERS: "ORGAN DONOR CONSENT STATEMENT: IF ON THIS FORM YOU MARKED "YES" TO REGISTER AS AN ORGAN AND TISSUE DONOR, YOU ARE LEGALLY AUTHORIZING THE RECOVERY OF ANY AND ALL ORGANS AND/OR TISSUES IN THE EVENT OF YOUR DEATH AND YOUR NAME WILL BE ADDED TO THE NEW YORK STATE DONATE LIFE REGISTRY. IF YOU WISH TO DONATE ONLY SPECIFIC ORGANS AND/OR TISSUES YOU MUST SPECIFY THOSE IN THE SPACE PROVIDED BELOW. REGISTERING AS A DONOR WILL NOT AFFECT YOUR MEDICAL TREATMENT IN ANY WAY. AS OUTLINED IN S 4301 OF THE NEW YORK STATE PUBLIC HEALTH LAW, YOUR AUTHORIZATION IS LEGALLY BINDING AND, UNLESS THE DONOR IS UNDER AGE 18, YOUR DECISION DOES NOT REQUIRE THE CONSENT OF ANY OTHER PERSON. FOR REGISTERED DONORS UNDER AGE 18, THE LEGAL GUARDIAN SHALL MAKE THE FINAL DONATION DECISION." DECLINING TO ENROLL IN THE NEW YORK STATE DONATE LIFE REGISTRY UNDER THIS SECTION BY MARKING THE "NO" BOX ON THE APPLICATION AND SEPARATELY SIGNING SHALL BE DEEMED A SHOWING THAT THE DONOR HAS REVOKED THE AUTHORIZATION PURSUANT TO SUBDIVISION ONE OF S 4301 OF THE PUBLIC HEALTH LAW, WHICH THE COMMIS-

SIONER SHALL IMMEDIATELY REPORT TO THE DEPARTMENT OF HEALTH. 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 7. Subdivision 5 of section 508 of the vehicle and traffic law, as added by chapter 570 of the laws of 2006, is amended to read as follows:

5. The commissioner is directed to develop license application and renewal forms which shall solicit a voluntary [one] TWO dollar donation from persons applying for or renewing a driver's license at the time of such application or renewal. Of monies collected pursuant to this subdivision, the first one hundred fifty thousand dollars shall be retained by the department to offset its initial program costs. Subsequently, five percent of any monies collected pursuant to this subdivision shall be retained by the department for continuing administrative costs. The remainder of such monies collected pursuant to this subdivision shall be deposited in the life pass it on trust fund established pursuant to section ninety-five-d of the state finance law, as added by chapter four hundred fifteen of the laws of two thousand three.

S 8. Section 508 of the vehicle and traffic law is amended by adding a new subdivision 6 to read as follows:

6. IN PROCESSING ANY APPLICATION FOR A DRIVER'S LICENSE OR RENEWAL THEREOF PURSUANT TO THIS ARTICLE OR TO TITLE ELEVEN OF THIS CHAPTER, THE COMMISSIONER SHALL PROVIDE APPLICANTS WITH INFORMATIONAL MATERIALS DESCRIBING ORGAN AND TISSUE DONATION, THE NEW YORK STATE DONATE LIFE REGISTRY FOR ORGAN AND TISSUE DONATIONS (WITH CURRENT CONTACT INFORMATION FOR SUCH REGISTRY INCLUDING ITS MAILING AND WEBSITE ADDRESSES), AND THE "LIFE PASS IT ON" TRUST FUND. SUCH INFORMATIONAL MATERIALS SHALL BE DISTRIBUTED AT THE FIRST OPPORTUNITY AND PERIODICALLY THEREAFTER.

S 9. Subdivision 2 of section 95-d of the state finance law, as added by chapter 415 of the laws of 2003, is amended to read as follows:

2. Such fund shall consist of all revenues received pursuant to the provisions of SUBDIVISION TWENTY OF SECTION FOUR HUNDRED ONE, section four hundred four-u, AND SUBDIVISION FIVE OF SECTION FIVE HUNDRED EIGHT of the vehicle and traffic law and all other moneys appropriated, credited, or transferred thereto from any other fund or source pursuant to law. Nothing contained in this section shall prevent the state from receiving grants, gifts or bequests for the purposes of the fund as defined in this section and depositing them into the fund according to law.

S 10. Subdivision 2 of section 4310 of the public health law, as amended by chapter 161 of the laws of 2010, is amended to read as follows:

2. Such registration of consent to make an anatomical gift can be made through (a) indication made on the application or renewal form of a license OR VEHICLE REGISTRATION, (b) indication made on a non-driver identification card application or renewal form, (c) enrolling in the registry website maintained by the department, which may include using an electronic signature under regulations of the commissioner and subject to article three of the state technology law, (d) indication made on a voter registration form pursuant to subdivision five of section 5-210 of the election law, or (e) through any other method identified by the commissioner. The registration shall take effect upon the department sending written notice of the registration to the person enrolling in the registry. In making regulations on using an electronic signature for a registration of consent, the commissioner shall consult with the director of the office of technology.

S 11. Section 4303 of the public health law is amended by adding two new subdivisions 6 and 7 to read as follows:

6. FOR ALL ANATOMICAL GIFTS MADE UNDER THIS ARTICLE OR ARTICLE FOURTEEN OR ARTICLE NINETEEN OF THE VEHICLE AND TRAFFIC LAW, THE DONOR WILL BE PRESUMED TO MAKE A DONATION OF ANY AND ALL ORGANS AND TISSUES; PROVIDED, HOWEVER, THAT THIS PRESUMPTION SHALL NOT APPLY WHEN:

(A) THE DONOR HAS EXPRESSLY STATED HIS OR HER INTENTION IN WRITING, TO GIFT A SPECIFIC ORGAN OR ORGANS AND/OR TISSUE OR TISSUES. AN EXPRESS GIFT OF A SPECIFIC ORGAN OR ORGANS AND/OR TISSUE OR TISSUES SHALL DEFEAT THE PRESUMPTION OF THIS SECTION EVEN IN THE ABSENCE OF LANGUAGE THAT IS NOT OTHERWISE INCONSISTENT WITH THIS SECTION;

(B) THE DONOR HAS EXPRESSLY STATED HIS OR HER INTENTION TO THE NEW YORK STATE DONATE LIFE REGISTRY. ANY COMMUNICATION, INCLUDING WRITTEN, ORAL, SIGN LANGUAGE, ELECTRONIC OR OTHERWISE, THAT CONTRADICTS OR OTHERWISE CONFLICTS WITH THE PRESUMPTION OF THIS SECTION SHALL BE SUFFICIENT TO OVERCOME THE PRESUMPTION OF THIS SECTION;

(C) THE DONOR REVOKES HIS OR HER GIFT;

(D) THE DONOR IS UNDER THE AGE OF EIGHTEEN, IN WHICH CASE THE DONOR'S LEGAL GUARDIAN SHALL MAKE THE FINAL DONATION DECISION;

(E) THE GIFT IS MADE PURSUANT TO ARTICLE FOURTEEN OR NINETEEN OF THE VEHICLE AND TRAFFIC LAW AND THE DONOR HAS LISTED A SPECIFIC ORGAN OR ORGANS AND/OR TISSUE OR TISSUES. ANY MARK MADE ON THE DONOR'S LICENSE OR VEHICLE REGISTRATION OR THE DONOR'S APPLICATION FOR LICENSE OR REGISTRATION OR APPLICATION FOR RENEWAL OF LICENSE OR REGISTRATION THAT INDICATES THE DONOR INTENDS TO MAKE A SPECIFIC GIFT OF ORGAN OR ORGANS AND/OR TISSUE OR TISSUES SHALL DEFEAT THE PRESUMPTION OF THIS SECTION;

(F) THE DONATION IS PROHIBITED BY SECTION FORTY-THREE HUNDRED SEVEN OF THIS ARTICLE.

7. THE COMMISSIONER OF THE DEPARTMENT OF MOTOR VEHICLES SHALL PROVIDE PRINTED INFORMATIONAL MATERIAL TO THE GENERAL PUBLIC INCLUDING, BUT NOT LIMITED TO, POSTERS, ENROLLMENT FORMS AND OTHER INFORMATIONAL LITERATURE INFORMING THE GENERAL PUBLIC ABOUT ORGAN AND TISSUE DONATION, THE NEW YORK STATE DONATE LIFE REGISTRY FOR ORGAN AND TISSUE DONATIONS INCLUDING CURRENT MAILING AND WEBSITE ADDRESSES FOR SUCH REGISTRY, AND THE "LIFE PASS IT ON" TRUST FUND. THE COMMISSIONER SHALL MAKE SUCH INFORMATIONAL MATERIALS AVAILABLE TO THE GENERAL PUBLIC AT ALL DEPARTMENT OF MOTOR VEHICLE OFFICES, ALL COUNTY OFFICES THAT PROVIDE DEPARTMENT OF MOTOR VEHICLE SERVICES, AND ON THE DEPARTMENT OF MOTOR VEHICLES' WEBSITE.

S 12. This act shall take effect November 1, 2013.