

3231

2011-2012 Regular Sessions

I N   S E N A T E

February 14, 2011

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Introduced by Sen. CARLUCCI -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation

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:

1     Section 1. Short title. This act shall be known and may be cited as  
2     the "New York State Organ Donor Awareness and Education Act."  
3     S 2. Paragraph b of subdivision 1 of section 401 of the vehicle and  
4     traffic law, as amended by chapter 222 of the laws of 1996, is amended  
5     to read as follows:  
6     b. Every owner of a motor vehicle which shall be operated or driven  
7     upon the public highways of this state shall, except as otherwise  
8     expressly provided, cause to be presented, by mail or otherwise, to the  
9     office or a branch office of the commissioner, or to any agent of the  
10    commissioner, constituted as provided in this chapter, an application  
11    for registration addressed to the commissioner, and on a blank to be  
12    prepared under the direction of and furnished by the commissioner for  
13    that purpose, containing: (a) a brief description of the motor vehicle  
14    to be registered, including the name and factory number of such vehicle,  
15    and such other facts as the commissioner shall require; (b) the weight  
16    of the vehicle upon which the registration fee is based if the fee is  
17    based on weight; (c) the name and residence, including county of the  
18    owner of such motor vehicle; (C-1) WITH RESPECT TO VEHICLES SUBJECT TO  
19    REGISTRATION PURSUANT TO SUBDIVISION SIX, PARAGRAPH ONE OF SCHEDULE B  
20    AND SCHEDULE C OF SUBDIVISION SEVEN OF THIS SECTION, SPACE ON THE APPLI-  
21    CATION AND RENEWAL APPLICATION TO ENABLE THE APPLICANT TO DECLINE REGIS-  
22    TRATION IN THE NEW YORK STATE DONATE LIFE REGISTRY PURSUANT TO SUBDIVI-  
23    SION TWO-A OF SECTION FORTY-THREE HUNDRED TEN OF THE PUBLIC HEALTH LAW,  
24    AS INDICATED BY CHECKING "NO" TO REGISTRATION IN SUCH REGISTRY AND SPACE

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

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1 FOR THE APPLICANT'S SIGNATURE WITHIN A DESIGNATED AREA (SEPARATE FROM  
2 THE FINAL SIGNATURE CERTIFYING THE VALIDITY OF THE INFORMATION PROVIDED  
3 IN THE OVERALL APPLICATION FOR REGISTRATION). DECLINING TO ENROLL IN  
4 THE NEW YORK STATE DONATE LIFE REGISTRY UNDER THIS SECTION BY MARKING  
5 THE "NO" BOX ON THE APPLICATION AND SEPARATELY SIGNING SHALL BE DEEMED A  
6 SHOWING THAT THE APPLICANT HAS DECLINED THE AUTHORIZATION PURSUANT TO  
7 SUBDIVISION TWO-A OF SECTION FORTY-THREE HUNDRED TEN OF THE PUBLIC  
8 HEALTH LAW; (d) provided that, if such motor vehicle is used or to be  
9 used as an omnibus, the applicant also shall so certify, and in the case  
10 of an omnibus also certify as to the seating capacity, and if the omni-  
11 bus is to be operated wholly within a municipality pursuant to a fran-  
12 chise other than a franchise express or implied in articles of incorpo-  
13 ration upon certain streets designated in such franchise, those facts  
14 shall also be certified, and a certified copy of such franchise  
15 furnished to the commissioner; (e) provided, that, if such motor vehicle  
16 is an altered livery, the applicant shall so furnish a certified copy of  
17 the length of the center panel of such vehicle, provided, however, that  
18 the commissioner shall require such proof, as he may determine is neces-  
19 sary, in the application for registration and provided further, if the  
20 center panel of such vehicle exceeds one hundred inches, the commission-  
21 er shall require proof that such vehicle is in compliance with all  
22 applicable federal and state motor vehicle safety standards; and (f)  
23 such additional facts or evidence as the commissioner may require in  
24 connection with the application for registration. Every owner of a  
25 trailer shall also make application for the registration thereof in the  
26 manner herein provided for an application to register a motor vehicle,  
27 but shall contain a statement showing the manufacturer's number or other  
28 identification satisfactory to the commissioner and no number plate for  
29 a trailer issued under the provisions of subdivision three of section  
30 four hundred two of this chapter shall be transferred to or used upon  
31 any other trailer than the one for which number plate is issued. The  
32 commissioner shall require proof, in the application for registration,  
33 or otherwise, as such commissioner may determine, that the motor vehicle  
34 for which registration is applied for is equipped with lights conforming  
35 in all respects to the requirements of this chapter, and no motor vehi-  
36 cle shall be registered unless it shall appear by such proofs that such  
37 motor vehicle is equipped with proper lights as aforesaid. The said  
38 application shall contain or be accompanied by such evidence of the  
39 ownership of the motor vehicle described in the application as may be  
40 required by the commissioner or his agent and which, with respect to new  
41 vehicles, shall include, unless otherwise specifically provided by the  
42 commissioner, the manufacturer's statement of origin. Applications  
43 received by an agent of the commissioner shall be forwarded to the  
44 commissioner as he shall direct for filing. No application for registra-  
45 tion shall be accepted unless the applicant is at least sixteen years of  
46 age.

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

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

1 MATERIALS SHALL BE DISTRIBUTED AT THE FIRST OPPORTUNITY AND PERIODICALLY  
2 THEREAFTER.

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

6 a. Upon filing of such application and the payment of the fee herein-  
7 after provided, the commissioner shall assign to such motor vehicle a  
8 distinctive number and, without expense to the applicant, issue and  
9 deliver in such manner as the commissioner may select to the owner a  
10 certificate of registration, in such form as the commissioner shall  
11 prescribe, and two number plates at a place within the state of New York  
12 named by the applicant in his or her application. EVERY CERTIFICATE OF  
13 REGISTRATION ISSUED FOR A VEHICLE REGISTERED PURSUANT TO SUBDIVISION SIX  
14 OR PARAGRAPH ONE OF SCHEDULE B AND SCHEDULE C OF SUBDIVISION SEVEN OF  
15 THIS SECTION TO A PERSON MAKING AN ANATOMICAL GIFT SHALL HAVE PROMINENT-  
16 LY PRINTED UPON THE FRONT OF SUCH CERTIFICATE OF REGISTRATION OR RENEWAL  
17 THEREOF THE STATEMENT "ORGAN DONOR" IN NOTABLY DISTINCTIVE PRINT OR  
18 FORMAT. THE COMMISSIONER SHALL NOT REQUIRE FEES FOR THE ISSUANCE OF SUCH  
19 REGISTRATION OR RENEWAL THEREOF TO PERSONS MAKING AN ANATOMICAL GIFT  
20 WHICH ARE DIFFERENT FROM THE FEES REQUIRED FOR THE ISSUANCE OF REGISTRA-  
21 TIONS OR RENEWALS THEREOF TO PERSONS NOT MAKING AN ANATOMICAL GIFT. A  
22 number plate, within the meaning of this chapter, may, in the discretion  
23 of the commissioner, be a plate of a permanent nature, treated with  
24 reflectorized material according to specifications prescribed by the  
25 commissioner, and with a date tag attached to such plate or to the vehi-  
26 cle as prescribed by regulations of the commissioner indicating the  
27 validity of the plate during a certain period and the issuance of such a  
28 number plate with such date tag to a person possessing such a number  
29 plate shall be deemed the issuance of a number plate. An additional fee,  
30 not to exceed twenty-five dollars, shall be paid to the commissioner  
31 whenever a set of reflectorized number plates is issued for any vehicle  
32 for which a registration fee is normally charged except that, with  
33 respect to any number plate which is specifically requested by the  
34 applicant, such fee shall be paid to the commissioner upon approval of  
35 such request. In the event of the loss, mutilation or destruction of any  
36 certificate of registration, any number plate or set of number plates  
37 whether with or without a date tag or tags, or any date tag or set of  
38 date tags provided for in this article, the owner of a registered motor  
39 vehicle may file such statement and proof of the facts as the commis-  
40 sioner shall require, with a fee of three dollars, in the office of the  
41 commissioner, or, unless and until the commissioner shall otherwise  
42 direct, in the office of the agent who issued the certificate, plate,  
43 plates, tag or tags and the commissioner or his or her agent, as the  
44 case may be, shall issue a duplicate or substitute. It shall be the duty  
45 of every owner holding a certificate of registration to notify the  
46 commissioner in writing of any change of residence of such person within  
47 ten days after such change occurs, and to inscribe on such certificate,  
48 in the place provided by the commissioner, a record of such change of  
49 residence.

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

52 20. THE COMMISSIONER IS DIRECTED TO DEVELOP REGISTRATION APPLICATION  
53 AND RENEWAL FORMS WHICH SHALL SOLICIT A VOLUNTARY TWO DOLLAR DONATION  
54 FROM PERSONS APPLYING FOR OR RENEWING A VEHICLE REGISTRATION AT THE TIME  
55 OF SUCH APPLICATION OR RENEWAL. OF MONIES COLLECTED PURSUANT TO THIS  
56 SUBDIVISION, THE FIRST ONE HUNDRED FIFTY THOUSAND DOLLARS SHALL BE

1 RETAINED BY THE DEPARTMENT TO OFFSET ITS INITIAL PROGRAM COSTS. SUBSE-  
2 QUENTLY, FIVE PERCENT OF ANY MONIES COLLECTED PURSUANT TO THIS SUBDIVI-  
3 SION SHALL BE RETAINED BY THE DEPARTMENT FOR CONTINUING ADMINISTRATIVE  
4 COSTS. THE REMAINDER OF SUCH MONIES COLLECTED PURSUANT TO THIS SUBDIVI-  
5 SION SHALL BE DEPOSITED IN THE "LIFE PASS IT ON" TRUST FUND ESTABLISHED  
6 PURSUANT TO SECTION NINETY-FIVE-D OF THE STATE FINANCE LAW, AS ADDED BY  
7 CHAPTER FOUR HUNDRED FIFTEEN OF THE LAWS OF TWO THOUSAND THREE.

8 S 6. Subdivision 1 of section 502 of the vehicle and traffic law, as  
9 amended by chapter 639 of the laws of 2006, is amended to read as  
10 follows:

11 1. Application for license. Application for a driver's license shall  
12 be made to the commissioner. The fee prescribed by law may be submitted  
13 with such application. The applicant shall furnish such proof of identi-  
14 ty, age, and fitness as may be required by the commissioner. The commis-  
15 sioner may also provide that the application procedure shall include the  
16 taking of a photo image or images of the applicant in accordance with  
17 rules and regulations prescribed by the commissioner. In addition, the  
18 commissioner also shall require that the applicant provide his or her  
19 social security number and provide space on the application so that the  
20 applicant may [register] ~~DECLINE REGISTRATION~~ in the New York state  
21 organ and tissue donor registry under section forty-three hundred ten of  
22 the public health law, AS INDICATED BY CHECKING "NO" TO REGISTRATION IN  
23 SUCH REGISTRY TOGETHER WITH THE APPLICANT'S SIGNATURE WITHIN A DESIG-  
24 NATED AREA (SEPARATE FROM THE FINAL SIGNATURE CERTIFYING THE VALIDITY OF  
25 THE INFORMATION PROVIDED IN THE OVERALL APPLICATION). ~~DECLINING TO~~  
26 ~~ENROLL IN THE NEW YORK STATE DONATE LIFE REGISTRY UNDER THIS SECTION BY~~  
27 ~~MARKING THE "NO" BOX ON THE APPLICATION AND SEPARATELY SIGNING SHALL BE~~  
28 ~~DEEMED A SHOWING THAT THE APPLICANT HAS DENIED THE AUTHORIZATION PURSU-~~  
29 ~~ANT TO SUBDIVISION TWO-A OF SECTION FORTY-THREE HUNDRED TEN OF THE~~  
30 ~~PUBLIC HEALTH LAW.~~ In addition, an applicant for a commercial driver's  
31 license who will operate a commercial motor vehicle in interstate  
32 commerce shall certify that such applicant meets the requirements to  
33 operate a commercial motor vehicle, as set forth in public law 99-570,  
34 title XII, and title 49 of the code of federal regulations, and all  
35 regulations promulgated by the United States secretary of transportation  
36 under the hazardous materials transportation act. Upon a determination  
37 that the holder of a commercial driver's license has made any false  
38 statement, with respect to the application for such license, the commis-  
39 sioner shall revoke such license.

40 S 7. Subdivision 5 of section 508 of the vehicle and traffic law, as  
41 added by chapter 570 of the laws of 2006, is amended to read as follows:

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

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

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

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

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

20 S 10. Subdivision 2 of section 4310 of the public health law, as  
21 amended by chapter 161 of the laws of 2010, is amended and a new subdi-  
22 vision 2-a is added to read as follows:

23 2. Such registration of consent to make an anatomical gift can be made  
24 [through] (a) [indication made on the application or renewal form of]  
25 AUTOMATICALLY THROUGH APPLYING FOR A RENEWING a license AND/OR VEHICLE  
26 REGISTRATION, (b) THROUGH indication made on a non-driver identification  
27 card application or renewal form, (c) BY enrolling in the registry  
28 website maintained by the department, which may include using an elec-  
29 tronic signature under regulations of the commissioner and subject to  
30 article three of the state technology law, (d) THROUGH indication made  
31 on a voter registration form pursuant to subdivision five of section  
32 5-210 of the election law, or (e) through any other method identified by  
33 the commissioner. The registration shall take effect upon the department  
34 sending written notice of the registration to the person enrolling in  
35 the registry. In making regulations on using an electronic signature for  
36 a registration of consent, the commissioner shall consult with the  
37 director of the office of technology.

38 2-A. ANY PERSON FILING WITH THE COMMISSIONER OF THE DEPARTMENT OF  
39 MOTOR VEHICLES AN APPLICATION FOR REGISTRATION OR RENEWAL OF REGISTRA-  
40 TION OF A MOTOR VEHICLE PURSUANT TO PARAGRAPH B OF SUBDIVISION ONE OF  
41 SECTION FOUR HUNDRED ONE OF THE VEHICLE AND TRAFFIC LAW AND/OR AN APPLI-  
42 CATION FOR A LICENSE OR RENEWAL OF A LICENSE PURSUANT TO SUBDIVISION ONE  
43 OF SECTION FIVE HUNDRED TWO OF THE VEHICLE AND TRAFFIC LAW MAY DECLINE  
44 REGISTRATION IN THE NEW YORK STATE DONATE LIFE REGISTRY BY CHECKING "NO"  
45 TO REGISTRATION IN SUCH REGISTRY AND AFFIXING HIS OR HER SIGNATURE WITH-  
46 IN A DESIGNATED AREA ON SUCH APPLICATION (SEPARATE FROM THE FINAL SIGNA-  
47 TURE CERTIFYING THE VALIDITY OF THE INFORMATION PROVIDED IN THE OVERALL  
48 APPLICATION).

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

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

55 (A) THE DONOR HAS EXPRESSLY STATED HIS OR HER INTENTION IN WRITING, TO  
56 GIFT A SPECIFIC ORGAN OR ORGANS AND/OR TISSUE OR TISSUES. AN EXPRESS

1 GIFT OF A SPECIFIC ORGAN OR ORGANS AND/OR TISSUE OR TISSUES SHALL DEFEAT  
2 THE PRESUMPTION OF THIS SECTION EVEN IN THE ABSENCE OF LANGUAGE THAT IS  
3 NOT OTHERWISE INCONSISTENT WITH THIS SECTION;

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

9 (C) THE DONOR REVOKES HIS OR HER GIFT;

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

12 (E) THE GIFT IS MADE PURSUANT TO ARTICLE FOURTEEN OR NINETEEN OF THE  
13 VEHICLE AND TRAFFIC LAW AND THE DONOR HAS LISTED A SPECIFIC ORGAN OR  
14 ORGANS AND/OR TISSUE OR TISSUES. ANY MARK MADE ON THE DONOR'S LICENSE OR  
15 VEHICLE REGISTRATION OR THE DONOR'S APPLICATION FOR LICENSE OR REGISTRA-  
16 TION OR APPLICATION FOR RENEWAL OF LICENSE OR REGISTRATION THAT INDICI-  
17 CATES THE DONOR INTENDS TO MAKE A SPECIFIC GIFT OF ORGAN OR ORGANS  
18 AND/OR TISSUE OR TISSUES SHALL DEFEAT THE PRESUMPTION OF THIS SECTION;

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

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

31 S 12. This act shall take effect November 1, 2012.