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

2106

2013-2014 Regular Sessions

I N S E N A T E

January 10, 2013

Introduced by Sen. ESPAILLAT -- 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, in relation to authorizing certain undocumented Americans to obtain New York state drivers' licenses or non-driver identification cards; to repeal certain provisions of such law relating thereto; and providing for the repeal of certain provisions upon expiration thereof

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

Section 1. Subparagraph (i) of paragraph (a) of subdivision 3 of section 490 of the vehicle and traffic law, as amended by chapter 235 of the laws of 2002, is amended to read as follows:

(i) The commissioner shall upon submission of an appropriate application, upon payment of the prescribed fee, and upon being satisfied that the person described is the applicant and that such applicant meets the requirements set forth in subdivision two of this section, issue to such applicant a nontransferable identification card. In addition, the commissioner also shall require that an applicant for an identification card or renewal thereof provide his or her social security number, PROVIDED, HOWEVER THAT NO APPLICANT SHALL BE DENIED A NON-DRIVER IDENTIFICATION CARD IF SUCH APPLICANT HAS OBTAINED A HIGH SCHOOL DIPLOMA OR ITS EQUIVALENT.

S 2. Subparagraph (i) of paragraph (a) of subdivision 3 of section 490 of the vehicle and traffic law, as amended by chapter 487 of the laws of 2012, is amended to read as follows:

(i) The commissioner shall upon submission of an appropriate application, upon payment of the prescribed fee, and upon being satisfied that the person described is the applicant and that such applicant meets the requirements set forth in subdivision two of this section, issue to such applicant a nontransferable identification card. In addition, the commissioner also shall require that an applicant for an identification

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

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card or renewal thereof provide his or her social security number, PROVIDED, HOWEVER THAT NO APPLICANT SHALL BE DENIED A NON-DRIVER IDENTIFICATION CARD IF SUCH APPLICANT HAS OBTAINED A HIGH SCHOOL DIPLOMA OR ITS EQUIVALENT. The commissioner shall provide space so that an applicant may request a notation upon such identification card that he or she is a veteran of the United States armed forces.

S 3. 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, PROVIDED, HOWEVER THAT NO APPLICANT SHALL BE DENIED A DRIVER'S LICENSE IF SUCH APPLICANT: (I) OTHERWISE QUALIFIES FOR A LICENSE PURSUANT TO THIS SECTION, (II) HAS OBTAINED A HIGH SCHOOL DIPLOMA OR ITS EQUIVALENT, AND (III) HAS APPLIED FOR LAWFUL IMMIGRATION STATUS OR SHALL APPLY FOR LAWFUL IMMIGRATION STATUS AS SOON AS SUCH APPLICANT IS ELIGIBLE TO DO SO. 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, IF SUCH APPLICANT HAS A SOCIAL SECURITY NUMBER, BUT NO APPLICANT SHALL BE DENIED A LICENSE PURSUANT TO THIS SECTION SOLELY ON THE BASIS OF NOT HAVING A SOCIAL SECURITY NUMBER, and 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. 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 4. Subdivision 1 of section 502 of the vehicle and traffic law, as separately amended by section 1 of part D of chapter 58 and chapter 487 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, PROVIDED, HOWEVER THAT NO APPLICANT SHALL BE DENIED A DRIVER'S LICENSE IF SUCH APPLICANT: (I) OTHERWISE QUALIFIES FOR A LICENSE PURSUANT TO THIS SECTION, (II) HAS OBTAINED A HIGH SCHOOL DIPLOMA OR ITS EQUIVALENT, AND

(III) HAS APPLIED FOR LAWFUL IMMIGRATION STATUS OR SHALL APPLY FOR LAWFUL IMMIGRATION STATUS AS SOON AS SUCH APPLICANT IS ELIGIBLE TO DO SO. 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, IF SUCH APPLICANT HAS A SOCIAL SECURITY NUMBER, BUT NO APPLICANT SHALL BE DENIED A LICENSE PURSUANT TO THIS SECTION SOLELY ON THE BASIS OF NOT HAVING A SOCIAL SECURITY NUMBER, 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[, and] 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'."

THE COMMISSIONER OF THE DEPARTMENT OF HEALTH SHALL NOT MAINTAIN RECORDS OF ANY PERSON WHO CHECKS "SKIP THIS QUESTION". FAILURE TO CHECK A BOX SHALL NOT IMPAIR THE VALIDITY OF AN APPLICATION, AND FAILURE TO CHECK "YES" OR CHECKING "SKIP THIS QUESTION" SHALL NOT BE CONSTRUED TO IMPLY A WISH NOT TO DONATE. IN THE CASE OF AN APPLICANT UNDER EIGHTEEN YEARS OF AGE, CHECKING "YES" SHALL NOT CONSTITUTE CONSENT TO MAKE AN ANATOMICAL GIFT OR REGISTRATION IN THE DONATE LIFE REGISTRY. WHERE AN 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. THE APPLICATION SHALL PROVIDE space so that the applicant may request a notation upon such license that he or she is a veteran of the United States armed forces. 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 amended by chapter 465 of the laws of 2012, is REPEALED.

S 6. Subdivision 1 of section 502 of the vehicle and traffic law, as separately amended by section 1 of part D of chapter 58 and chapter 487 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, PROVIDED,

HOWEVER THAT NO APPLICANT SHALL BE DENIED A DRIVER'S LICENSE IF SUCH APPLICANT: (I) OTHERWISE QUALIFIES FOR A LICENSE PURSUANT TO THIS SECTION, (II) HAS OBTAINED A HIGH SCHOOL DIPLOMA OR ITS EQUIVALENT, AND (III) HAS APPLIED FOR LAWFUL IMMIGRATION STATUS OR SHALL APPLY FOR LAWFUL IMMIGRATION STATUS AS SOON AS SUCH APPLICANT IS ELIGIBLE TO DO SO. 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, IF SUCH APPLICANT HAS A SOCIAL SECURITY NUMBER, BUT NO APPLICANT SHALL BE DENIED A LICENSE PURSUANT TO THIS SECTION SOLELY ON THE BASIS OF NOT HAVING A SOCIAL SECURITY NUMBER, and 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, and space so that the applicant may request a notation upon such license that he or she is a veteran of the United States armed forces. 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. Paragraph (a) of subdivision 6 of section 502 of the vehicle and traffic law, as amended by section 3 of part K of chapter 59 of the laws of 2009, is amended to read as follows:

(a) A license issued pursuant to subdivision five of this section shall be valid until the expiration date contained thereon, unless such license is suspended, revoked or cancelled. Such license may be renewed by submission of an application for renewal, the fee prescribed by law, proofs of prior licensing, fitness and acceptable vision prescribed by the commissioner, the applicant's social security number, IF SUCH APPLICANT HAS A SOCIAL SECURITY NUMBER, and if required by the commissioner a photo image of the applicant in such numbers and form as the commissioner shall prescribe. In addition, an applicant for renewal of a license containing a hazardous material endorsement shall pass an examination to retain such endorsement. The commissioner shall, with respect to the renewal of a hazardous materials endorsement, comply with the requirements imposed upon states by sections 383.141 and 1572.13 of title 49 of the code of federal regulations. A renewal of such license shall be issued by the commissioner upon approval of such application, except that no such license shall be issued if its issuance would be inconsistent with the provisions of section five hundred sixteen of this title, and except that the commissioner may refuse to renew such license if the

applicant is the holder of a currently valid or renewable license to drive issued by another state or foreign country unless the applicant surrenders such license.

S 8. This act shall take effect on the one hundred twentieth day after it shall have become a law; provided, however, that sections two and four of this act shall take effect on the same date and in the same manner as chapter 487 of the laws of 2012, takes effect; provided further that the amendments to subdivision 1 of section 502 of the vehicle and traffic law made by section four of this act shall expire and be deemed repealed October 3, 2016 when upon such date section six of this act shall take effect. Effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date is authorized to be made on or before such date.