

7792

2013-2014 Regular Sessions

I N A S S E M B L Y

June 4, 2013

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
24 applicant has previously consented to make an anatomical gift or regis-

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

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tered 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 487 of the laws of 2012, 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 TREATMENT, 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 years shall have prominently imprinted thereon the statement "UNDER 21

1 YEARS OF AGE" in notably distinctive print or format. Provided, further,
2 however, that every identification card issued to an applicant who was a
3 member of the armed forces of the United States and received [on] AN
4 honorable discharge or was released therefrom under honorable conditions
5 shall, upon his or her request and submission of proof as set forth
6 herein, contain a distinguishing mark, in such form as the commissioner
7 shall determine, indicating that he or she is a veteran. Such proof
8 shall consist of a certificate of release or discharge from active duty
9 including but not limited to a DD Form 214 or other proof satisfactory
10 to the commissioner. The commissioner shall not require fees for the
11 issuance of such identification cards or renewals thereof to persons
12 under twenty-one years of age which are different from the fees required
13 for the issuance of identification cards or renewals thereof to persons
14 twenty-one years of age or over, nor fees to persons requesting a veter-
15 an notation which are different from fees that would otherwise be
16 required.

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19 REPEALED and a new subdivision 1 is added to read as follows:

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

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

38 THE COMMISSIONER OF THE DEPARTMENT OF HEALTH SHALL NOT MAINTAIN
39 RECORDS OF ANY PERSON WHO CHECKS "SKIP THIS QUESTION". FAILURE TO CHECK
40 A BOX SHALL NOT IMPAIR THE VALIDITY OF AN APPLICATION, AND FAILURE TO
41 CHECK "YES" OR CHECKING "SKIP THIS QUESTION" SHALL NOT BE CONSTRUED TO
42 IMPLY A WISH NOT TO DONATE. IN THE CASE OF AN APPLICANT UNDER EIGHTEEN
43 YEARS OF AGE, CHECKING "YES" SHALL NOT CONSTITUTE CONSENT TO MAKE AN
44 ANATOMICAL GIFT OR REGISTRATION IN THE DONATE LIFE REGISTRY. WHERE AN
45 APPLICANT HAS PREVIOUSLY CONSENTED TO MAKE AN ANATOMICAL GIFT OR REGIS-
46 TERED IN THE DONATE LIFE REGISTRY, CHECKING "SKIP THIS QUESTION" OR
47 FAILING TO CHECK A BOX SHALL NOT IMPAIR THAT CONSENT OR REGISTRATION. IN
48 ADDITION, THE COMMISSIONER ALSO SHALL REQUIRE THAT SPACE SHALL BE
49 PROVIDED ON THE APPLICATION SO THAT THE APPLICANT MAY REQUEST A NOTATION
50 UPON SUCH LICENSE THAT HE OR SHE IS A VETERAN OF THE UNITED STATES ARMED
51 FORCES. ADDITIONALLY, THE COMMISSIONER SHALL ENSURE THAT SPACE IS
52 PROVIDED ON THE APPLICATION SO THAT THE APPLICANT SHALL INDICATE A
53 DECLARATION RELATING TO THE DESIGNATION OF A HEALTH CARE PROXY PURSUANT
54 TO SECTION TWENTY-NINE HUNDRED EIGHTY-ONE OF THE PUBLIC HEALTH LAW AND
55 THAT THE FOLLOWING IS TYPED IN CLEAR AND CONSPICUOUS TYPE:

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

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

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

10 THE COMMISSIONER SHALL MAKE WHATEVER PROVISIONS ARE FEASIBLE AND
11 DESIRABLE TO MAINTAIN AND ISSUE ALL SUITABLE DOCUMENTS REGARDING
12 ADVANCED DIRECTIVES AT DRIVER'S LICENSE EXAMINING OFFICES. IN ADDITION,
13 AN APPLICANT FOR A COMMERCIAL DRIVER'S LICENSE WHO WILL OPERATE A
14 COMMERCIAL MOTOR VEHICLE IN INTERSTATE COMMERCE SHALL CERTIFY THAT SUCH
15 APPLICANT MEETS THE REQUIREMENTS TO OPERATE A COMMERCIAL MOTOR VEHICLE,
16 AS SET FORTH IN PUBLIC LAW 99-570, TITLE XII, AND TITLE 49 OF THE CODE
17 OF FEDERAL REGULATIONS, AND ALL REGULATIONS PROMULGATED BY THE UNITED
18 STATES SECRETARY OF TRANSPORTATION UNDER THE HAZARDOUS MATERIALS TRANS-
19 PORTATION ACT. IN ADDITION, AN APPLICANT FOR A COMMERCIAL DRIVER'S
20 LICENSE SHALL SUBMIT A MEDICAL CERTIFICATE AT SUCH INTERVALS AS REQUIRED
21 BY THE FEDERAL MOTOR CARRIER SAFETY IMPROVEMENT ACT OF 1999 AND PART
22 383.71(H) OF TITLE 49 OF THE CODE OF FEDERAL REGULATIONS RELATING TO
23 MEDICAL CERTIFICATION AND IN A MANNER PRESCRIBED BY THE COMMISSIONER.
24 FOR PURPOSES OF THIS SECTION AND SECTIONS FIVE HUNDRED THREE, FIVE
25 HUNDRED TEN-A, AND FIVE HUNDRED TEN-AA OF THIS TITLE, THE TERMS "MEDICAL
26 CERTIFICATE" AND "MEDICAL CERTIFICATION" SHALL MEAN A FORM SUBSTANTIALLY
27 IN COMPLIANCE WITH THE FORM SET FORTH IN PART 391.43(H) OF TITLE 49 OF
28 THE CODE OF FEDERAL REGULATIONS. UPON A DETERMINATION THAT THE HOLDER OF
29 A COMMERCIAL DRIVER'S LICENSE HAS MADE ANY FALSE STATEMENT, WITH RESPECT
30 TO THE APPLICATION FOR SUCH LICENSE, THE COMMISSIONER SHALL REVOKE SUCH
31 LICENSE.

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

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

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

52 The commissioner of the department of health shall not maintain
53 records of any person who checks "skip this question". Failure to check
54 a box shall not impair the validity of an application, and failure to
55 check "yes" or checking "skip this question" shall not be construed to
56 imply a wish not to donate. In the case of an applicant under eighteen

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

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

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

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

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

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

48 (a) Every license or renewal thereof shall contain a distinguishing
49 mark and adequate space upon which an anatomical gift, pursuant to
50 section forty-three hundred ten of the public health law, by the licen-
51 see shall be recorded and shall contain such other information and shall
52 be issued in such form as the commissioner shall determine; provided,
53 however, every license or renewal thereof issued to a person under the
54 age of twenty-one years shall have prominently imprinted upon it the
55 statement "UNDER 21 YEARS OF AGE" in notably distinctive print or
56 format; provided further, however, every license or renewal thereof

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

15 S 7. This act shall take effect immediately; provided, however:

16 (a) the amendments to subdivision 2 of section 490 of the vehicle and
17 traffic law made by section one of this act shall take effect on the
18 same date and same manner as chapter 465 of the laws of 2012 takes
19 effect and such amendments shall not affect the expiration of such
20 subdivision as provided in section 6 of such chapter when upon such date
21 section two of this act shall take effect;

22 (b) the amendments to paragraph (b) of subdivision 3 of section 490 of
23 the vehicle and traffic law made by section three of this act shall take
24 effect on the same date and same manner as chapter 487 of the laws of
25 2012, takes effect;

26 (c) section four of this act shall take effect October 3, 2013; and

27 (d) section five of this act shall take effect October 3, 2016.