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

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 ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivision 2 of section 490 of the vehicle and traffic law, as amended by chapter 465 of the laws of 2012, 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. The commissioner shall ensure that space is provided on the application so that the applicant shall register or decline registration in the donate life registry for organ and tissue donations pursuant to section forty-three hundred ten of the public health law and that the following is 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 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

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

S 4. Subdivision 1 of section 502 of the vehicle and traffic law, as separately amended by chapters 465 and 487 of the laws of 2012, is REPEALED and a new subdivision 1 is added 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'."

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. IN ADDITION, THE COMMISSIONER ALSO SHALL REQUIRE THAT SPACE SHALL BE PROVIDED ON THE APPLICATION SO THAT THE APPLICANT MAY REQUEST A NOTATION 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'."

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]. In addition, the commissioner also shall require that space shall be provided on the application so that the applicant may request a notation 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 6. Paragraph (a) of subdivision 1 of section 504 of the vehicle and traffic law, as separately amended by chapters 568 and 639 of the laws of 2006, is amended to read as follows:

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

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

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

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

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

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

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