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

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2015-2016 Regular Sessions

I N A S S E M B L Y

February 10, 2015

Introduced by M. of A. ORTIZ, CLARK, PALMESANO, SKOUFIS, GALEF, FAHY, JAFFEE, LUPINACCI, GOODELL, GOTTFRIED -- Multi-Sponsored by -- M. of A. OAKS, TENNEY -- read once and referred to the Committee on Health -- reported and referred to the Committee on Codes -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Health in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law and the vehicle and traffic law, in relation to authorizing persons 16 years of age or older to make an anatomical gift

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

Section 1. Subdivision 1 of section 4301 of the public health law, as amended by chapter 348 of the laws of 2009, is amended to read as follows:

1. (A) Any individual of sound mind and eighteen years of age or more may give all or any part of his or her body for any purpose specified in section forty-three hundred two of this article, the gift to take effect upon death. In any case where the donor has properly executed an organ donor card, driver's license authorization to make an anatomical gift, pursuant to paragraph (a) of subdivision one of section five hundred four of the vehicle and traffic law, registered in the New York state organ and tissue donor registry under section forty-three hundred ten of this article, or has otherwise given written authorization for organ or tissue donation, authorization for donation shall not be rescinded by an objection by a member of any of the classes specified in paragraphs (a) through (h) of subdivision two of this section, except upon a showing that the donor revoked the authorization.

(B) ANY PERSON WHO IS SIXTEEN OR SEVENTEEN YEARS OF AGE AND OF SOUND MIND MAY GIVE ALL OR ANY PART OF HIS OR HER BODY FOR ANY PURPOSE SPECIFIED IN SECTION FORTY-THREE HUNDRED TWO OF THIS ARTICLE, THE GIFT TO TAKE EFFECT UPON DEATH. IN ANY CASE WHERE THE DONOR HAS PROPERLY

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

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EXECUTED AN ORGAN DONOR CARD, DRIVER'S LICENSE AUTHORIZATION TO MAKE AN ANATOMICAL GIFT, PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION FIVE HUNDRED FOUR OF THE VEHICLE AND TRAFFIC LAW, OR HAS OTHERWISE GIVEN WRITTEN AUTHORIZATION FOR ORGAN OR TISSUE DONATION, NOTICE OF SUCH GIFT SHALL BE PROVIDED TO THE DONOR'S PARENTS OR LEGAL GUARDIANS, AND AUTHORIZATION FOR DONATION MAY BE RESCINDED OR AMENDED BY AN OBJECTION BY A PARENT OR LEGAL GUARDIAN OF THE DONOR AT THE TIME OF DEATH AND PRIOR TO THE RECOVERY OF ANY ORGAN OR TISSUE IF THE DONOR IS LESS THAN EIGHTEEN YEARS OF AGE. AN ANATOMICAL GIFT MADE BY AN INDIVIDUAL MORE THAN SIXTEEN YEARS OF AGE BUT LESS THAN EIGHTEEN SHALL OTHERWISE NOT BE RESCINDED, EXCEPT UPON A SHOWING THAT THE DONOR REVOKED THE AUTHORIZATION. UPON THE DONOR REACHING THE AGE OF EIGHTEEN, THE DONOR'S CONSENT TO DONATE HIS OR HER ORGANS OR TISSUE SHALL BE REGARDED AS CONSENT FOR AUTHORIZATION TO MAKE AN ANATOMICAL GIFT.

S 2. Paragraph (a) and subparagraph (ii) of paragraph (b) of subdivision 5 of section 4310 of the public health law, paragraph (a) as amended by section 27 of part A of chapter 60 of the laws of 2014 and subparagraph (ii) of paragraph (b) as amended by chapter 405 of the laws of 2015, are amended to read as follows:

(a) Such organ, eye and tissue registration of consent to make an anatomical gift can be made through: (i) indication made on the application or renewal form of a driver's license, (ii) indication made on a non-driver identification card application or renewal form, (iii) indication made on a voter registration form pursuant to subdivision five of section 5-210 of the election law, (iv) enrollment through the donate life registry website, (v) paper enrollment submitted to the donate life registry, or (vi) through any other method identified by the commissioner. THE DEPARTMENT SHALL ESTABLISH A MEANS BY WHICH TO REGISTER THE CONSENT GIVEN BY INDIVIDUALS WHO ARE SIXTEEN OR SEVENTEEN YEARS OF AGE IN THE DONATE LIFE REGISTRY, AND SHALL MAKE REGISTRATION AVAILABLE BY ANY OF THE METHODS PROVIDED IN SUBPARAGRAPHS (I), (II), (III), (IV), (V) AND (VI) OF THIS PARAGRAPH.

(ii) The commissioner shall not maintain records of any person who checks "skip this question". Except where the application is made in person or electronically, 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, EXCEPT AS OTHERWISE PROVIDED PURSUANT TO THE PROVISIONS OF PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION FORTY-THREE HUNDRED ONE OF THIS ARTICLE. 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.

S 3. The third undesignated paragraph of subdivision 2 of section 490 of the vehicle and traffic law, as amended by chapter 405 of the laws of 2015, is amended to read as follows:

The commissioner of health shall not maintain records of any person who checks "skip this question". Except where the application is made in person or electronically, 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, EXCEPT AS OTHERWISE PROVIDED PURSUANT TO

THE PROVISIONS OF PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION FORTY-THREE HUNDRED ONE OF THE PUBLIC HEALTH LAW. 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.

S 4. The third undesignated paragraph of subdivision 1 of section 502 of the vehicle and traffic law, as amended by chapter 405 of the laws of 2015, is amended to read as follows:

The commissioner of health shall not maintain records of any person who checks "skip this question". Except where the application is made in person or electronically, 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, EXCEPT AS OTHERWISE PROVIDED PURSUANT TO THE PROVISIONS OF PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION FORTY-THREE HUNDRED ONE OF THE PUBLIC HEALTH LAW. 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, 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. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that the amendments to paragraph (a) and subparagraph (ii) of paragraph (b) of subdivision 5 of section 4310 of the public health law, made by section two of this act, shall not affect the expiration and reversion of such subdivision, and shall expire therewith; provided, further that the amendments to the third undesignated paragraph of subdivision 2 of section 490 of the vehicle and traffic law, made by section three of this act, shall not affect the expiration and repeal of such paragraph, and shall be deemed repealed therewith; and provided, further that the amendments to the third undesignated paragraph of subdivision 1 of section 502 of the vehicle and traffic law, made by section four of this act, shall not affect the expiration of the amendments to such subdivision by chapter 465 of the laws of 2012, and shall expire therewith.