

4990--B

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:

1 Section 1. Subdivision 1 of section 4301 of the public health law, as  
2 amended by chapter 348 of the laws of 2009, is amended to read as  
3 follows:  
4 1. (A) Any individual of sound mind and eighteen years of age or more  
5 may give all or any part of his or her body for any purpose specified in  
6 section forty-three hundred two of this article, the gift to take effect  
7 upon death. In any case where the donor has properly executed an organ  
8 donor card, driver's license authorization to make an anatomical gift,  
9 pursuant to paragraph (a) of subdivision one of section five hundred  
10 four of the vehicle and traffic law, registered in the New York state  
11 organ and tissue donor registry under section forty-three hundred ten of  
12 this article, or has otherwise given written authorization for organ or  
13 tissue donation, authorization for donation shall not be rescinded by an  
14 objection by a member of any of the classes specified in paragraphs (a)  
15 through (h) of subdivision two of this section, except upon a showing  
16 that the donor revoked the authorization.  
17 (B) ANY PERSON WHO IS SIXTEEN OR SEVENTEEN YEARS OF AGE AND OF SOUND  
18 MIND MAY GIVE ALL OR ANY PART OF HIS OR HER BODY FOR ANY PURPOSE SPECI-  
19 FIED IN SECTION FORTY-THREE HUNDRED TWO OF THIS ARTICLE, THE GIFT TO  
20 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.

LBD03736-03-6

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6 IZATION FOR DONATION MAY BE RESCINDED OR AMENDED BY AN OBJECTION BY A  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10 YEARS OF AGE BUT LESS THAN EIGHTEEN SHALL OTHERWISE NOT BE RESCINDED,  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

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

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

33 (ii) The commissioner shall not maintain records of any person who  
34 checks "skip this question". Except where the application is made in  
35 person or electronically, failure to check a box shall not impair the  
36 validity of an application, and failure to check "yes" or checking "skip  
37 this question" shall not be construed to imply a wish not to donate. In  
38 the case of an applicant under eighteen years of age, checking "yes"  
39 shall not constitute consent to make an anatomical gift or registration  
40 in the donate life registry, EXCEPT AS OTHERWISE PROVIDED PURSUANT TO  
41 THE PROVISIONS OF PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION  
42 FORTY-THREE HUNDRED ONE OF THIS ARTICLE. Where an applicant has previ-  
43 ously consented to make an anatomical gift or registered in the donate  
44 life registry, checking "skip this question" or failing to check a box  
45 shall not impair that consent or registration.

46 S 3. The third undesignated paragraph of subdivision 2 of section 490  
47 of the vehicle and traffic law, as amended by chapter 405 of the laws of  
48 2015, is amended to read as follows:

49 The commissioner of health shall not maintain records of any person  
50 who checks "skip this question". Except where the application is made in  
51 person or electronically, failure to check a box shall not impair the  
52 validity of an application, and failure to check "yes" or checking "skip  
53 this question" shall not be construed to imply a wish not to donate. In  
54 the case of an applicant under eighteen years of age, checking "yes"  
55 shall not constitute consent to make an anatomical gift or registration  
56 in the donate life registry, EXCEPT AS OTHERWISE PROVIDED PURSUANT TO

1 THE PROVISIONS OF PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION  
2 FORTY-THREE HUNDRED ONE OF THE PUBLIC HEALTH LAW. Where an applicant  
3 has previously consented to make an anatomical gift or registered in the  
4 donate life registry, checking "skip this question" or failing to check  
5 a box shall not impair that consent or registration.

6 S 4. The third undesignated paragraph of subdivision 1 of section 502  
7 of the vehicle and traffic law, as amended by chapter 405 of the laws of  
8 2015, is amended to read as follows:

9 The commissioner of health shall not maintain records of any person  
10 who checks "skip this question". Except where the application is made in  
11 person or electronically, failure to check a box shall not impair the  
12 validity of an application, and failure to check "yes" or checking "skip  
13 this question" shall not be construed to imply a wish not to donate. In  
14 the case of an applicant under eighteen years of age, checking "yes"  
15 shall not constitute consent to make an anatomical gift or registration  
16 in the donate life registry, EXCEPT AS OTHERWISE PROVIDED PURSUANT TO  
17 THE PROVISIONS OF PARAGRAPH (B) OF SUBDIVISION ONE OF SECTION  
18 FORTY-THREE HUNDRED ONE OF THE PUBLIC HEALTH LAW. Where an applicant  
19 has previously consented to make an anatomical gift or registered in the  
20 donate life registry, checking "skip this question" or failing to check  
21 a box shall not impair that consent or registration. In addition, an  
22 applicant for a commercial driver's license who will operate a commer-  
23 cial motor vehicle in interstate commerce shall certify that such appli-  
24 cant meets the requirements to operate a commercial motor vehicle, as  
25 set forth in public law 99-570, title XII, and title 49 of the code of  
26 federal regulations, and all regulations promulgated by the United  
27 States secretary of transportation under the hazardous materials trans-  
28 portation act. In addition, an applicant for a commercial driver's  
29 license shall submit a medical certificate at such intervals as required  
30 by the federal motor carrier safety improvement act of 1999 and Part  
31 383.71(h) of title 49 of the code of federal regulations relating to  
32 medical certification and in a manner prescribed by the commissioner.  
33 For purposes of this section and sections five hundred three, five  
34 hundred ten-a, and five hundred ten-aa of this title, the terms "medical  
35 certificate" and "medical certification" shall mean a form substantially  
36 in compliance with the form set forth in Part 391.43(h) of title 49 of  
37 the code of federal regulations. Upon a determination that the holder of  
38 a commercial driver's license has made any false statement, with respect  
39 to the application for such license, the commissioner shall revoke such  
40 license.

41 S 5. This act shall take effect on the one hundred eightieth day after  
42 it shall have become a law; provided that the amendments to paragraph  
43 (a) and subparagraph (ii) of paragraph (b) of subdivision 5 of section  
44 4310 of the public health law, made by section two of this act, shall  
45 not affect the expiration and reversion of such subdivision, and shall  
46 expire therewith; provided, further that the amendments to the third  
47 undesignated paragraph of subdivision 2 of section 490 of the vehicle  
48 and traffic law, made by section three of this act, shall not affect the  
49 expiration and repeal of such paragraph, and shall be deemed repealed  
50 therewith; and provided, further that the amendments to the third undes-  
51 ignated paragraph of subdivision 1 of section 502 of the vehicle and  
52 traffic law, made by section four of this act, shall not affect the  
53 expiration of the amendments to such subdivision by chapter 465 of the  
54 laws of 2012, and shall expire therewith.