

2581--A

2015-2016 Regular Sessions

I N S E N A T E

January 26, 2015

Introduced by Sens. VALESKY, LATIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- recommitted to the Committee on Transportation in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

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:

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, the third undesig-
3 nated paragraph as amended by chapter 405 of the laws of 2015, is
4 amended to read as follows:
5 2. Application. Any person to whom a driver's license or learner's
6 permit has not been issued by the commissioner, or whose driver's
7 license or learner's permit is expired, suspended, revoked or surren-
8 dered, may make application to the commissioner for the issuance of an
9 identification card. The commissioner shall ensure that space is
10 provided on the application so that the applicant shall register or
11 decline registration in the donate life registry for organ and tissue
12 donations pursuant to section forty-three hundred ten of the public
13 health law and that the following is stated on the application in clear
14 and conspicuous type:
15 "You must fill out the following section: Would you like to be added
16 to the Donate Life Registry? Check box for 'yes' or 'skip this ques-
17 tion'."
18 The commissioner of health shall not maintain records of any person
19 who checks "skip this question". Except where the application is made in
20 person or electronically, failure to check a box shall not impair the
21 validity of an application, and failure to check "yes" or checking "skip

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

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1 this question" shall not be construed to imply a wish not to donate. In
2 the case of an applicant under eighteen years of age, checking "yes"
3 shall not constitute consent to make an anatomical gift or registration
4 in the donate life registry. Where an applicant has previously consented
5 to make an anatomical gift or registered in the donate life registry,
6 checking "skip this question" or failing to check a box shall not impair
7 that consent or registration. ADDITIONALLY, THE COMMISSIONER SHALL
8 ENSURE THAT SPACE IS PROVIDED ON THE APPLICATION SO THAT THE APPLICANT
9 SHALL INDICATE A DECLARATION RELATING TO THE DESIGNATION OF A HEALTH
10 CARE PROXY PURSUANT TO SECTION TWENTY-NINE HUNDRED EIGHTY-ONE OF THE
11 PUBLIC HEALTH LAW AND THAT THE FOLLOWING IS TYPED IN CLEAR AND CONSPICU-
12 OUS TYPE:

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

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

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

22 THE COMMISSIONER SHALL MAKE WHATEVER PROVISIONS ARE FEASIBLE AND
23 DESIRABLE TO MAINTAIN AND ISSUE ALL SUITABLE DOCUMENTS REGARDING
24 ADVANCED DIRECTIVES AT DRIVER'S LICENSE EXAMINING OFFICES.

25 S 2. Subdivision 2 of section 490 of the vehicle and traffic law, as
26 amended by chapter 575 of the laws of 2006, is amended to read as
27 follows:

28 2. Application. Any person to whom a driver's license or learner's
29 permit has not been issued by the commissioner, or whose driver's
30 license or learner's permit is expired, suspended, revoked or surren-
31 dered, may make application to the commissioner for the issuance of an
32 identification card. ADDITIONALLY, THE COMMISSIONER SHALL ENSURE THAT
33 SPACE IS PROVIDED ON THE APPLICATION SO THAT THE APPLICANT SHALL INDI-
34 CATE A DECLARATION RELATING TO THE DESIGNATION OF A HEALTH CARE PROXY
35 PURSUANT TO SECTION TWENTY-NINE HUNDRED EIGHTY-ONE OF THE PUBLIC HEALTH
36 LAW AND THAT THE FOLLOWING IS TYPED IN CLEAR AND CONSPICUOUS TYPE:

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

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

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

46 THE COMMISSIONER SHALL MAKE WHATEVER PROVISIONS ARE FEASIBLE AND
47 DESIRABLE TO MAINTAIN AND ISSUE ALL SUITABLE DOCUMENTS REGARDING
48 ADVANCED DIRECTIVES AT DRIVER'S LICENSE EXAMINING OFFICES.

49 S 3. Subparagraph (b) of subdivision 3 of section 490 of the vehicle
50 and traffic law, as amended by chapter 429 of the laws of 2014, is
51 amended to read as follows:

52 (b) The identification card shall contain a distinguishing number or
53 mark and adequate space upon which an anatomical gift, pursuant to arti-
54 cle forty-three of the public health law, A DECLARATION RELATING TO A
55 HEALTH CARE PROXY, PURSUANT TO SECTION TWENTY-NINE HUNDRED EIGHTY-ONE OF
56 THE PUBLIC HEALTH LAW, AND A DECLARATION RELATING TO THE USE OF

1 LIFE-SUSTAINING TREATMENTS by the holder may be recorded and shall
2 contain such other information and shall be issued in such form as the
3 commissioner shall determine; provided, however, every identification
4 card or renewal thereof issued to a person under the age of twenty-one
5 years shall have prominently imprinted thereon the statement "UNDER 21
6 YEARS OF AGE" in notably distinctive print or format. Provided, further,
7 however, that every identification card issued to an applicant who was a
8 member of the armed forces of the United States and received an honor-
9 able discharge or was released therefrom under honorable conditions
10 shall, upon his or her request and submission of proof as set forth
11 herein, contain a distinguishing mark, in such form as the commissioner
12 shall determine, indicating that he or she is a veteran. Such proof
13 shall consist of a certificate of release or discharge from active duty
14 including but not limited to a DD Form 214 or other proof satisfactory
15 to the commissioner. The commissioner shall not require fees for the
16 issuance of such identification cards or renewals thereof to persons
17 under twenty-one years of age which are different from the fees required
18 for the issuance of identification cards or renewals thereof to persons
19 twenty-one years of age or over, nor fees to persons requesting a veter-
20 an distinguishing mark which are different from fees that would other-
21 wise be required. Provided, however, that notwithstanding the provisions
22 of section four hundred ninety-one of this article, the commissioner
23 shall not require any fees for the duplication or amendment of an iden-
24 tification card prior to its renewal if such duplication or amendment
25 was solely for the purpose of adding a veteran distinguishing mark to
26 such identification card.

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

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

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

48 THE COMMISSIONER OF THE DEPARTMENT OF HEALTH SHALL NOT MAINTAIN
49 RECORDS OF ANY PERSON WHO CHECKS "SKIP THIS QUESTION". FAILURE TO CHECK
50 A BOX SHALL NOT IMPAIR THE VALIDITY OF AN APPLICATION, AND FAILURE TO
51 CHECK "YES" OR CHECKING "SKIP THIS QUESTION" SHALL NOT BE CONSTRUED TO
52 IMPLY A WISH NOT TO DONATE. IN THE CASE OF AN APPLICANT UNDER EIGHTEEN
53 YEARS OF AGE, CHECKING "YES" SHALL NOT CONSTITUTE CONSENT TO MAKE AN
54 ANATOMICAL GIFT OR REGISTRATION IN THE DONATE LIFE REGISTRY. WHERE AN
55 APPLICANT HAS PREVIOUSLY CONSENTED TO MAKE AN ANATOMICAL GIFT OR REGIS-
56 TERED IN THE DONATE LIFE REGISTRY, CHECKING "SKIP THIS QUESTION" OR

1 FAILING TO CHECK A BOX SHALL NOT IMPAIR THAT CONSENT OR REGISTRATION. IN
2 ADDITION, THE COMMISSIONER ALSO SHALL REQUIRE THAT SPACE SHALL BE
3 PROVIDED ON THE APPLICATION SO THAT THE APPLICANT MAY REQUEST A NOTATION
4 UPON SUCH LICENSE THAT HE OR SHE IS A VETERAN OF THE UNITED STATES ARMED
5 FORCES. ADDITIONALLY, THE COMMISSIONER SHALL ENSURE THAT SPACE IS
6 PROVIDED ON THE APPLICATION SO THAT THE APPLICANT SHALL INDICATE A
7 DECLARATION RELATING TO THE DESIGNATION OF A HEALTH CARE PROXY PURSUANT
8 TO SECTION TWENTY-NINE HUNDRED EIGHTY-ONE OF THE PUBLIC HEALTH LAW AND
9 THAT THE FOLLOWING IS TYPED IN CLEAR AND CONSPICUOUS TYPE:

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

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

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

19 THE COMMISSIONER SHALL MAKE WHATEVER PROVISIONS ARE FEASIBLE AND
20 DESIRABLE TO MAINTAIN AND ISSUE ALL SUITABLE DOCUMENTS REGARDING
21 ADVANCED DIRECTIVES AT DRIVER'S LICENSE EXAMINING OFFICES. IN ADDITION,
22 AN APPLICANT FOR A COMMERCIAL DRIVER'S LICENSE WHO WILL OPERATE A
23 COMMERCIAL MOTOR VEHICLE IN INTERSTATE COMMERCE SHALL CERTIFY THAT SUCH
24 APPLICANT MEETS THE REQUIREMENTS TO OPERATE A COMMERCIAL MOTOR VEHICLE,
25 AS SET FORTH IN PUBLIC LAW 99-570, TITLE XII, AND TITLE 49 OF THE CODE
26 OF 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. Subdivision 1 of section 502 of the vehicle and traffic law, as
42 added by section four of this act, is amended to read as follows:

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

1 health law [with the following stated on the application in clear and
2 conspicuous type:

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

6 The commissioner of the department of health shall not maintain
7 records of any person who checks "skip this question". Failure to check
8 a box shall not impair the validity of an application, and failure to
9 check "yes" or checking "skip this question" shall not be construed to
10 imply a wish not to donate. In the case of an applicant under eighteen
11 years of age, checking "yes" shall not constitute consent to make an
12 anatomical gift or registration in the donate life registry. Where an
13 applicant has previously consented to make an anatomical gift or regis-
14 tered in the donate life registry, checking "skip this question" or
15 failing to check a box shall not impair that consent or registration].
16 In addition, the commissioner also shall require that space shall be
17 provided on the application so that the applicant may request a notation
18 upon such license that he or she is a veteran of the United States armed
19 forces. Additionally, the commissioner shall ensure that space is
20 provided on the application so that the applicant shall indicate a
21 declaration relating to the designation of a health care proxy pursuant
22 to section twenty-nine hundred eighty-one of the public health law and
23 that the following is typed in clear and conspicuous type:

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

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

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

33 The commissioner shall make whatever provisions are feasible and
34 desirable to maintain and issue all suitable documents regarding
35 advanced directives at driver's license examining offices. In addition,
36 an applicant for a commercial driver's license who will operate a
37 commercial motor vehicle in interstate commerce shall certify that such
38 applicant meets the requirements to operate a commercial motor vehicle,
39 as set forth in public law 99-570, title XII, and title 49 of the code
40 of federal regulations, and all regulations promulgated by the United
41 States secretary of transportation under the hazardous materials trans-
42 portation act. In addition, an applicant for a commercial driver's
43 license shall submit a medical certificate at such intervals as required
44 by the federal motor carrier safety improvement act of 1999 and Part
45 383.71(h) of title 49 of the code of federal regulations relating to
46 medical certification and in a manner prescribed by the commissioner.
47 For purposes of this section and sections five hundred three, five
48 hundred ten-a, and five hundred ten-aa of this title, the terms "medical
49 certificate" and "medical certification" shall mean a form substantially
50 in compliance with the form set forth in Part 391.43(h) of title 49 of
51 the code of federal regulations. Upon a determination that the holder of
52 a commercial driver's license has made any false statement, with respect
53 to the application for such license, the commissioner shall revoke such
54 license.

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

4 (a) Every license or renewal thereof shall contain a distinguishing
5 mark and adequate space upon which an anatomical gift, pursuant to
6 section forty-three hundred ten of the public health law, by the licen-
7 see shall be recorded and shall contain such other information and shall
8 be issued in such form as the commissioner shall determine; provided,
9 however, every license or renewal thereof issued to a person under the
10 age of twenty-one years shall have prominently imprinted upon it the
11 statement "UNDER 21 YEARS OF AGE" in notably distinctive print or
12 format; provided further, however, every license or renewal thereof
13 issued to a person making an anatomical gift shall have prominently
14 printed upon the front of such license or renewal thereof the statement
15 "ORGAN DONOR" in notably distinctive print or format; PROVIDED THAT
16 EVERY LICENSE SHALL HAVE IMPRINTED ON THE BACK "DESIGNATED HEALTH CARE
17 AGENT:" FOLLOWED BY A SPACE FOR THE HEALTH CARE AGENT'S NAME AND CONTACT
18 INFORMATION; AND PROVIDED FURTHER THAT EVERY LICENSE SHALL HAVE
19 IMPRINTED ON THE BACK "EXECUTED DECLARATION RELATING TO LIFE-SUSTAINING
20 TREATMENT:" FOLLOWED BY A SPACE TO MARK THE APPROPRIATE BOX "YES" OR
21 "NO". The commissioner shall not require fees for the issuance of such
22 licenses or renewals thereof to persons under twenty-one years of age or
23 to persons making an anatomical gift which are different from the fees
24 required for the issuance of licenses or renewals thereof to persons
25 twenty-one years of age or over or to persons not making an anatomical
26 gift.

27 S 7. This act shall take effect immediately; provided, however, that
28 the amendments to subdivision 2 of section 490 of the vehicle and traf-
29 fic law made by section one of this act shall be subject to the expira-
30 tion and reversion of such subdivision pursuant to section 6 of chapter
31 465 of the laws of 2012, as amended, when upon such date the provisions
32 of section two of this act shall take effect; and provided further that
33 section four of this act shall take effect on the one hundred eightieth
34 day after it shall have become a law, and section five of this act shall
35 take effect October 3, 2017.