

5313

2015-2016 Regular Sessions

I N S E N A T E

May 13, 2015

Introduced by Sen. HANNON -- read twice and ordered printed, and when printed to be committed to the Committee on Health

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13 tissue donation, authorization for donation shall not be rescinded by an  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  
21 EXECUTED AN ORGAN DONOR CARD, DRIVER'S LICENSE AUTHORIZATION TO MAKE AN  
22 ANATOMICAL GIFT, PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION  
23 FIVE HUNDRED FOUR OF THE VEHICLE AND TRAFFIC LAW, OR HAS OTHERWISE GIVEN  
24 WRITTEN AUTHORIZATION FOR ORGAN OR TISSUE DONATION, NOTICE OF SUCH GIFT

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

LBD10496-04-5

1 SHALL BE PROVIDED TO THE DONOR'S PARENTS OR LEGAL GUARDIANS, AND AUTHOR-  
2 IZATION FOR DONATION MAY BE RESCINDED OR AMENDED BY AN OBJECTION BY A  
3 PARENT OR LEGAL GUARDIAN OF THE DONOR AT THE TIME OF DEATH AND PRIOR TO  
4 THE RECOVERY OF ANY ORGAN OR TISSUE IF THE DONOR IS LESS THAN EIGHTEEN  
5 YEARS OF AGE. AN ANATOMICAL GIFT MADE BY AN INDIVIDUAL MORE THAN SIXTEEN  
6 YEARS OF AGE BUT LESS THAN EIGHTEEN SHALL OTHERWISE NOT BE RESCINDED,  
7 EXCEPT UPON A SHOWING THAT THE DONOR REVOKED THE AUTHORIZATION. UPON THE  
8 DONOR REACHING THE AGE OF EIGHTEEN, THE DONOR'S CONSENT TO DONATE HIS OR  
9 HER ORGANS OR TISSUE SHALL BE REGARDED AS CONSENT FOR AUTHORIZATION TO  
10 MAKE AN ANATOMICAL GIFT.

11 S 2. Paragraph (a) and subparagraph (ii) of paragraph (b) of subdivi-  
12 sion 5 of section 4310 of the public health law, as amended by section  
13 27 of part A of chapter 60 of the laws of 2014, are amended to read as  
14 follows:

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

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

40 S 3. The third undesignated paragraph of subdivision 2 of section 490  
41 of the vehicle and traffic law, as added by chapter 465 of the laws of  
42 2012, is amended to read as follows:

43 The commissioner of [the department of] health shall not maintain  
44 records of any person who checks "skip this question". Failure to check  
45 a box shall not impair the validity of an application, and failure to  
46 check "yes" or checking "skip this question" shall not be construed to  
47 imply a wish not to donate. In the case of an applicant under eighteen  
48 years of age, checking "yes" shall not constitute consent to make an  
49 anatomical gift or registration in the donate life registry, EXCEPT AS  
50 OTHERWISE PROVIDED PURSUANT TO THE PROVISIONS OF PARAGRAPH (B) OF SUBDI-  
51 VISION ONE OF SECTION FORTY-THREE HUNDRED ONE OF THE PUBLIC HEALTH LAW.  
52 Where an applicant has previously consented to make an anatomical gift  
53 or registered in the donate life registry, checking "skip this question"  
54 or failing to check a box shall not impair that consent or registration.

1 S 4. The third undesignated paragraph of subdivision 1 of section 502  
2 of the vehicle and traffic law, as amended by chapter 465 of the laws of  
3 2012, is amended to read as follows:

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

35 S 5. This act shall take effect on the one hundred eightieth day after  
36 it shall have become a law; provided that the amendments to paragraph  
37 (a) and subparagraph (ii) of paragraph (b) of subdivision 5 of section  
38 4310 of the public health law, made by section two of this act, shall  
39 not affect the expiration and reversion of such subdivision, and shall  
40 expire therewith; provided, further that the amendments to the third  
41 undesignated paragraph of subdivision 2 of section 490 of the vehicle  
42 and traffic law, made by section three of this act, shall not affect the  
43 expiration and repeal of such paragraph, and shall be deemed repealed  
44 therewith; and provided, further that the amendments to the third undes-  
45 igned paragraph of subdivision 1 of section 502 of the vehicle and  
46 traffic law, made by section four of this act, shall not affect the  
47 expiration of the amendments to such subdivision by chapter 465 of the  
48 laws of 2012, and shall expire therewith.