

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13 tissue donation, authorization for donation shall not be rescinded by an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.

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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2 IZATION FOR DONATION MAY BE RESCINDED OR AMENDED BY AN OBJECTION BY A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 ignated 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.