# STATE OF NEW YORK

2526--A

2017-2018 Regular Sessions

# IN ASSEMBLY

January 20, 2017

Introduced by M. of A. SIMOTAS, DINOWITZ, MAYER, LUPINACCI, ORTIZ, BUCHWALD, O'DONNELL, QUART, LUPARDO, BRAUNSTEIN, ERRIGO, RAIA, PALMESANO -- Multi-Sponsored by -- M. of A. STEC -- read once and referred to the Committee on Health -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the public health law, the education law, the tax law, the vehicle and traffic law, the judiciary law and the executive law, in relation to requiring certain state forms and applications to include space for registering in the "donate life registry" for organ, eye and tissue donations; and to repeal certain provisions of the public health law relating thereto

**The People of the State of New York, represented in Senate and Assembly, do enact as follows:**

Section 1. Paragraph (a) of subdivision 5 of section 4310 of the public health law, as separately amended by chapters 40 and 248 of the laws of 2016, is 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) indication made on the application for health care coverage offered through the state health benefit exchange, (v) enrollment through the donate life registry website, (vi) paper enrollment submitted to the donate life registry, [~~or~~] (vii) *indication made on application for a certificate, license or registration issued pursuant to article sixty-one of the education law, (viii) indication made on an application to practice a profession pursuant to title eight of the education law, (ix) indication made on a personal income tax return, (x) indication made on an application for registration or renewal thereof of a motor vehicle, (xi) indication made on an applica-*

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

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tion for admission to practice or on a biennial registration form pursuant to section four hundred sixty-four or four hundred sixty-eight-a of the judiciary law, (xii) indication made on an application to conduct a profession or occupation which is licensed or registered by the department of state, or (xiii) 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), (vii), (viii), (ix), (x), (xi), (xii) and (xiii) of this paragraph.

§ 2. Paragraph (a) of subdivision 5 of section 4310 of the public health law, as amended by section 27 of part A of chapter 60 of the laws of 2014, is 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) indication made on application for a certificate, license or registration issued pursuant to article sixty-one of the education law, (vii) indication made on an application to practice a profession pursuant to title eight of the education law, (viii) indication made on a personal income tax return, (ix) indication made on an application for registration or renewal thereof of a motor vehicle, (x) indication made on an application for admission to practice or on a biennial registration form pursuant to section four hundred sixty-four or four hundred sixty-eight-a of the judiciary law, (xi) indication made on an application to conduct a profession or occupation which is licensed or registered by the department of state or (xii) through any other method identified by the commissioner.

§ 2-a. Paragraphs (b) and (c) of subdivision 5 of section 4310 of the public health law are REPEALED and a new paragraph (b) is added to read as follows:

(b) Enrollment or amendment or revocation through the donate life registry website through any of the means listed in this subdivision may be signed by electronic signature, in accordance with the provisions of article three of the state technology law, supported by the use of suitable mechanisms including unique identifiers to provide confidence in the identity of the person providing the electronic signature. The registration shall take effect upon the provision of written or electronic notice of the registration to the individual enrolling in the donate life registry.

§ 2-b. Paragraphs (d), (e) and (f) of subdivision 5 of section 4310 of the public health law are relettered paragraphs (c), (d) and (e).

§ 3. Subdivision 1 of section 206 of the public health law is amended by adding six new paragraphs (w), (x), (y), (z), (aa) and (bb) to read as follows:

(w) require, in consultation and cooperation with the commissioner of education, that every individual applying for a certificate, license or registration issued pursuant to article sixty-one of the education law, be provided space so that such applicant may register in the "donate life registry" for organ, eye and tissue donations under section forty-three hundred ten of this chapter with the following stated in clear

conspicuous type: "Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'". 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 sixteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration in the donate life registry. 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.

(x) require, in consultation and cooperation with the commissioner of education, that every individual applying to practice a profession pursuant to title eight of the education law, be provided space so that such applicant may register in the "donate life registry" for organ, eye and tissue donations under section forty-three hundred ten of this chapter with the following stated in clear conspicuous type: "Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'". 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 sixteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration in the donate life registry. 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.

(y) require, in consultation and cooperation with the department of taxation and finance, that every individual filing a personal income tax return be provided space so that such applicant may register in the "donate life registry" for organ, eye and tissue donations under section forty-three hundred ten of this chapter with the following stated in clear conspicuous type: "Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'". 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 sixteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration in the donate life registry. 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.

(z) require, in consultation and cooperation with the commissioner of motor vehicles, that every individual applying for a registration or renewal thereof of a motor vehicle be provided space so that such applicant may register in the "donate life registry" for organ, eye and tissue donations under section forty-three hundred ten of this chapter with the following stated in clear conspicuous type: "Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'". 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 sixteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration in the donate life registry. 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.

(aa) require, in consultation and cooperation with the state board of law examiners, that every individual applying for admission to practice or on a biennial registration form pursuant to section four hundred sixty-four or four hundred sixty-eight-a of the judiciary law, be provided space so that such applicant may register in the "donate life registry" for organ, eye and tissue donations under section forty-three hundred ten of this chapter with the following stated in clear conspicuous type: "Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'". 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 sixteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration in the donate life registry. 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.

(bb) require, in consultation and cooperation with the secretary of state, that every individual applying to conduct a profession or occupation which is licensed or registered by the department of state be provided space so that such applicant may register in the "donate life registry" for organ, eye and tissue donations under section forty-three hundred ten of this chapter with the following stated in clear conspicuous type: "Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'". 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 sixteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration in the donate life registry. 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.

§ 4. Section 3006 of the education law is amended by adding a new subdivision 4 to read as follows:

4. Organ, eye and tissue donation. The commissioner shall provide on each application for a certificate, license or registration issued pursuant to this article, and each renewal thereof, space for the applicant to register in the "donate life registry" for organ, eye and tissue donations established pursuant to section forty-three hundred ten of the public health law with the following stated on the application in clear and conspicuous type: "Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'". The regents

shall not maintain records of any person who checks "skip this question". 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 sixteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration in the donate life registry. Provided, that where an applicant has previously consented to make an anatomical gift or registered in the "donate life registry", failing to check a box shall not impair such consent or registration.

§ 5. Section 6501 of the education law is amended by adding a new subdivision 3 to read as follows:

3. The regents shall provide, on each application to practice a profession pursuant to this title and each application for renewal of a license, registration or certification to practice such a profession, space for the applicant to register in the "donate life registry" of organ, eye and tissue donations established pursuant to section forty-three hundred ten of the public health law with the following stated on the application in clear and conspicuous type: "Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'". The regents shall not maintain records of any person who checks "skip this question". 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 sixteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration in the donate life registry. Provided, that where an applicant has previously consented to make an anatomical gift or registered in the "donate life registry", failing to check a box shall not impair such consent or registration.

§ 6. Section 651 of the tax law is amended by adding a new subsection (a-1) to read as follows:

(a-1) Organ, eye and tissue donation. The commissioner shall provide on each return space for the taxpayer or taxpayers to register in the "donate life registry" for organ, eye and tissue donations established pursuant to section forty-three hundred ten of the public health law with the following stated on the application in clear and conspicuous type: "Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'". The commissioner shall not maintain records of any person who checks "skip this question". 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 sixteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration in the donate life registry. Provided, that where a taxpayer has previously consented to make an anatomical gift or registered in the "donate life registry", failing to check a box shall not impair such consent or registration.

§ 7. Paragraph b of subdivision 1 of section 401 of the vehicle and traffic law is amended by adding a new closing paragraph to read as follows:

The commissioner shall provide on each application for registration and renewal thereof space for the motor vehicle owner to register in the "donate life registry" for organ, eye and tissue donations established pursuant to section forty-three hundred ten of the public health law with the following stated on the application in clear and conspicuous type: "Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'". The commissioner shall not maintain records of any person who checks "skip this question". 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 sixteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration in the donate life registry. Provided, that where a motor vehicle owner has previously consented to make an anatomical gift or registered in the "donate life registry", failing to check a box shall not impair such consent or registration.

§ 8. Section 464 of the judiciary law is amended by adding a new closing paragraph to read as follows:

The chief administrator of the courts shall provide on each application for admission to practice, space for the applicant to register in the "donate life registry" for organ, eye and tissue donations established pursuant to section forty-three hundred ten of the public health law with the following stated on the application in clear and conspicuous type: "Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'". The chief administrator of the courts shall not maintain records of any person who checks "skip this question". 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 sixteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration in the donate life registry. Provided, that where an applicant has previously consented to make an anatomical gift or registered in the "donate life registry", failing to check a box shall not impair such consent or registration.

§ 9. Section 468-a of the judiciary law is amended by adding a new subdivision 4-a to read as follows:

4-a. The chief administrator shall provide on each biennial registration form space for the attorney to register in the "donate life registry" for organ, eye and tissue donations established pursuant to section forty-three hundred ten of the public health law with the following stated on the application in clear and conspicuous type: "Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'". The chief administrator shall not maintain records of any person who checks "skip this question". 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 sixteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration in the donate life registry. Provided, that where an attorney has previously consented to make an anatomical gift or registered in the "donate life registry", failing to check a box shall not impair such consent or registration.

§ 10. The executive law is amended by adding a new section 91-a to read as follows:

§ 91-a. Organ, eye and tissue donation. The secretary shall provide on each application to conduct a profession or occupation which is licensed or registered by the department, and each renewal thereof, space for the applicant to register in the "donate life registry" for organ, eye and tissue donations established pursuant to section forty-three hundred ten of the public health law with the following stated on the application in clear and conspicuous type: "Would you like to be added to the Donate Life Registry? Check box for 'yes' or 'skip this question'". The secretary shall not maintain records of any person who checks "skip this question". 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 sixteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration

**in the donate life registry. Provided, that where an applicant has previously consented to make an anatomical gift or registered in the "donate life registry", failing to check a box shall not impair such consent or registration.**

§ 11. This act shall take effect on the first of January next succeeding the date on which it shall have become a law, provided that the amendments to subdivision 5 of section 4310 of the public health law, made by section one of this act, shall not affect the expiration and reversion of such subdivision pursuant to section 6 of chapter 465 of the laws of 2012, as amended, when upon such date section two of this act shall take effect; provided further, sections two-a and two-b of this act shall take effect on the same date as the amendments to subdivision 2 of section 4310 of the public health law, made by chapter 465 of the laws of 2012, as amended, expire and are deemed repealed; provided, further, that effective immediately, the addition, amendment and/or repeal of any rule or regulation necessary for the implementation of this act on its effective date are authorized and directed to be made and completed on or before such effective date.