

STATE OF NEW YORK

6805

2019-2020 Regular Sessions

IN ASSEMBLY

March 20, 2019

Introduced by M. of A. CUSICK, LAVINE, JAFFEE, QUART, CARROLL -- Multi-Sponsored by -- M. of A. COOK, GALEF -- read once and referred to the Committee on Health

AN ACT to amend the public health law, the election law and the vehicle and traffic law, in relation to creating a state brain donor registry and to repeal certain provisions of the vehicle and traffic law relating thereto

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

1 Section 1. The public health law is amended by adding a new section
2 4311 to read as follows:

3 § 4311. New York state brain donor registry. 1. The department shall
4 establish a brain donor registry, which shall contain a listing of all
5 brain donors who have declared their consent to make an anatomical gift
6 of their brains for the purpose of medical research regarding develop-
7 mental disabilities, including but not limited to autism spectrum disor-
8 ders or cerebral palsy.

9 2. Such registration of consent to make an anatomical gift can be made
10 through (a) indication made on the application or renewal form of a
11 license, (b) indication made on a non-driver identification card appli-
12 cation or renewal form, (c) enrolling in the registry website maintained
13 by the department, (d) indication made on a voter registration form
14 pursuant to subdivision five of section 5-210 of the election law, or
15 (e) through any other method identified by the commissioner. The regis-
16 tration shall take effect upon the department sending written notice of
17 the registration to the person enrolling in the registry.

18 3. (a) Information contained in the registry shall be accessible to
19 any entity formally approved by the commissioner.

20 (b) The information contained in the registry shall not be released to
21 any person except as expressly authorized by this section solely for the

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

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1 purpose of identifying potential brain donors at or near the time of
2 death.

3 4. If the department had an established registry prior to the effec-
4 tive date of this section, it shall be deemed to meet the requirements
5 of this section.

6 5. A person registered in the brain donor registry before the effec-
7 tive date of this subdivision shall be deemed to have expressed intent
8 to donate, until and unless he or she files an amendment to his or her
9 registration or a new registration expressing consent to donate.

10 6. The commissioner shall contact each person registered before the
11 effective date of this subdivision in the brain donor registry in writ-
12 ing to inform him or her that at the time he or she registered, the
13 registry was that of intent and that the registry is now one of consent,
14 to explain in clear and understandable terms the difference between
15 intent and consent, and to provide opportunity for the person to change
16 his or her registration to provide consent by amending his or her
17 current registration or executing a new registration.

18 7. The commissioner is authorized to promulgate rules and regulations
19 necessary to implement the provisions of this section.

20 § 2. Subdivisions 1 and 5 of section 4301 of the public health law,
21 subdivision 1 as amended by chapter 248 of the laws of 2016 and subdivi-
22 sion 5 as amended by chapter 348 of the laws of 2009, are amended to
23 read as follows:

24 1. (a) Any individual of sound mind and eighteen years of age or more
25 may give all or any part of his or her body for any purpose specified in
26 section forty-three hundred two of this article, the gift to take effect
27 upon death. In any case where the donor has properly executed an organ
28 donor card or a brain donor card, driver's license authorization to make
29 an anatomical gift, pursuant to paragraph (a) of subdivision one of
30 section five hundred four of the vehicle and traffic law, registered in
31 the New York state organ and tissue donor registry under section forty-
32 three hundred ten of this article, registered in the New York state
33 brain donor registry under section forty-three hundred eleven of this
34 article or has otherwise given written authorization for brain, organ or
35 tissue donation, authorization for donation shall not be rescinded by an
36 objection by a member of any of the classes specified in paragraphs (a)
37 through (h) of subdivision two of this section, except upon a showing
38 that the donor revoked the authorization.

39 (b) Any person who is sixteen or seventeen years of age and of sound
40 mind may give all or any part of his or her body for any purpose speci-
41 fied in section forty-three hundred two of this article, the gift to
42 take effect upon death. In any case where the donor has properly
43 executed an organ donor card or a brain donor card, driver's license
44 authorization to make an anatomical gift, pursuant to paragraph (a) of
45 subdivision one of section five hundred four of the vehicle and traffic
46 law, or has otherwise given written authorization for brain, organ or
47 tissue donation, notice of such gift shall be provided to the donor's
48 parents or legal guardians, and authorization for donation may be
49 rescinded or amended by an objection by a parent or legal guardian of
50 the donor at the time of death and prior to the recovery of any brain,
51 organ or tissue if the donor is less than eighteen years of age. An
52 anatomical gift made by an individual more than sixteen years of age but
53 less than eighteen shall otherwise not be rescinded, except upon a show-
54 ing that the donor revoked the authorization. Upon the donor reaching
55 the age of eighteen, the donor's consent to donate his or her brain,

1 organs or tissue shall be regarded as consent for authorization to make
2 an anatomical gift.

3 5. The donee shall not accept the gift under the following circum-
4 stances:

5 (a) the donee has actual notice of contrary indication by the dece-
6 dent;

7 (b) where the donor has not properly executed an organ donor card or
8 brain donor card, driver's license authorization to make an anatomical
9 gift, pursuant to paragraph (a) of subdivision one of section five
10 hundred four of the vehicle and traffic law, registered in the New York
11 state organ and tissue donor registry under section forty-three hundred
12 ten of this article, registered in the New York state brain donor regis-
13 try under section forty-three hundred eleven of this article or other-
14 wise given written authorization for brain, organ or tissue donation, or
15 has revoked any such authorization, and the gift is opposed by a person
16 or persons in the highest priority available of the classes specified in
17 paragraph (a), (b), (c), (d), (e), (f), (g) or (h) of subdivision two of
18 this section; or

19 (c) the donee has reason to believe that an anatomical gift is contra-
20 ry to the decedent's religious or moral beliefs.

21 § 3. Paragraph (k) of subdivision 5 of section 5-210 of the election
22 law is amended by adding a new subparagraph (xiii) to read as follows:

23 (xiii) A space for the applicant to register in the New York state
24 brain donor registry for brain tissue donations established pursuant to
25 section forty-three hundred eleven of the public health law.

26 § 4. Paragraph (b) of subdivision 3 of section 490 of the vehicle and
27 traffic law, as amended by chapter 429 of the laws of 2014, is amended
28 to read as follows:

29 (b) The identification card shall contain a distinguishing number or
30 mark and adequate space upon which the holder may record the donation of
31 an anatomical gift of their organ, tissue or brain, pursuant to article
32 forty-three of the public health law, [~~by the holder may be recorded~~]
33 and such card shall contain such other information and shall be issued
34 in such form as the commissioner shall determine; provided, however,
35 every identification card or renewal thereof issued to a person under
36 the age of twenty-one years shall have prominently imprinted thereon the
37 statement "UNDER 21 YEARS OF AGE" in notably distinctive print or
38 format. Provided, further, however, that every identification card
39 issued to an applicant who was a member of the armed forces of the
40 United States and received an honorable discharge or was released there-
41 from under honorable conditions shall, upon his or her request and
42 submission of proof as set forth herein, contain a distinguishing mark,
43 in such form as the commissioner shall determine, indicating that he or
44 she is a veteran. Such proof shall consist of a certificate of release
45 or discharge from active duty including but not limited to a DD Form 214
46 or other proof satisfactory to the commissioner. The commissioner shall
47 not require fees for the issuance of such identification cards or
48 renewals thereof to persons under twenty-one years of age which are
49 different from the fees required for the issuance of identification
50 cards or renewals thereof to persons twenty-one years of age or over,
51 nor fees to persons requesting a veteran distinguishing mark which are
52 different from fees that would otherwise be required. Provided, however,
53 that notwithstanding the provisions of section four hundred ninety-one
54 of this article, the commissioner shall not require any fees for the
55 duplication or amendment of an identification card prior to its renewal

1 if such duplication or amendment was solely for the purpose of adding a
2 veteran distinguishing mark to such identification card.

3 § 5. Subdivision 1 of section 502 of the vehicle and traffic law is
4 REPEALED and a new subdivision 1 is added to read as follows:

5 1. Application for license. Application for a driver's license shall
6 be made to the commissioner. The fee prescribed by law may be submitted
7 with such application. The applicant shall furnish such proof of identi-
8 ty, age, and fitness as may be required by the commissioner. The
9 commissioner may also provide that the application procedure shall
10 include the taking of a photo image or images of the applicant in
11 accordance with rules and regulations prescribed by the commissioner. In
12 addition, the commissioner also shall require that the applicant provide
13 his or her social security number and shall provide space on the appli-
14 cation so that the applicant may register in the New York state organ
15 and tissue donor registry under section forty-three hundred ten of the
16 public health law or the New York state brain donor registry under
17 section forty-three hundred eleven of the public health law with the
18 following stated on the application in clear and conspicuous type:

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

22 You must fill out the following section: Would you like to be added to
23 the New York State Brain Donor Registry? Check box for 'yes' or 'skip
24 this question'."

25 The commissioner of health shall not maintain records of any person
26 who checks "skip this question". Except where the application is made
27 in person or electronically, failure to check a box shall not impair the
28 validity of an application, and failure to check "yes" or checking "skip
29 this question" shall not be construed to imply a wish not to donate. In
30 the case of an applicant under eighteen years of age, checking "yes"
31 shall not constitute consent to make an anatomical gift or registration
32 in the donate life registry or the New York state brain donor registry,
33 except as otherwise provided pursuant to the provisions of paragraph (b)
34 of subdivision one of section forty-three hundred one of the public
35 health law. Where an applicant has previously consented to make an
36 anatomical gift or registered in the donate life registry or the New
37 York state brain donor registry, checking "skip this question" or fail-
38 ing to check a box shall not impair that consent or registration. In
39 addition, the commissioner also shall require that space shall be
40 provided on the application so that the applicant may request a notation
41 upon such license that he or she is a veteran of the United States armed
42 forces. In addition, an applicant for a commercial driver's license who
43 will operate a commercial motor vehicle in interstate commerce shall
44 certify that such applicant meets the requirements to operate a commer-
45 cial motor vehicle, as set forth in public law 99-570, title XII, and
46 title 49 of the code of federal regulations, and all regulations promul-
47 gated by the United States secretary of transportation under the hazard-
48 ous materials transportation act. In addition, an applicant for a
49 commercial driver's license shall submit a medical certificate at such
50 intervals as required by the federal motor carrier safety improvement
51 act of 1999 and Part 383.71(h) of title 49 of the code of federal regu-
52 lations relating to medical certification and in a manner prescribed by
53 the commissioner. For purposes of this section and sections five hundred
54 three, five hundred ten-a, and five hundred ten-aa of this title, the
55 terms "medical certificate" and "medical certification" shall mean a
56 form substantially in compliance with the form set forth in Part

1 391.43(h) of title 49 of the code of federal regulations. Upon a deter-
2 mination that the holder of a commercial driver's license has made any
3 false statement, with respect to the application for such license, the
4 commissioner shall revoke such license.

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

8 (a) Every license or renewal thereof shall contain a distinguishing
9 mark and adequate space upon which the licensee may record the donation
10 of an anatomical gift of their organ, tissue or brain, pursuant to
11 ~~[section]~~ sections forty-three hundred ten and forty-three hundred elev-
12 en of the public health law, ~~[by the licensee shall be recorded]~~ and
13 shall contain such other information and shall be issued in such form as
14 the commissioner shall determine; provided, however, every license or
15 renewal thereof issued to a person under the age of twenty-one years
16 shall have prominently imprinted upon it the statement "UNDER 21 YEARS
17 OF AGE" in notably distinctive print or format; provided further, howev-
18 er, every license or renewal thereof issued to a person making an
19 anatomical gift shall have prominently printed upon the front of such
20 license or renewal thereof the statement "ORGAN DONOR" or "BRAIN DONOR"
21 in notably distinctive print or format. The commissioner shall not
22 require fees for the issuance of such licenses or renewals thereof to
23 persons under twenty-one years of age or to persons making an anatomical
24 gift which are different from the fees required for the issuance of
25 licenses or renewals thereof to persons twenty-one years of age or over
26 or to persons not making an anatomical gift.

27 § 7. This act shall take effect on the thirtieth day after it shall
28 have become a law.