STATE OF NEW YORK

56

2019-2020 Regular Sessions

IN SENATE

(Prefiled)

January 9, 2019

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

AN ACT to amend the civil rights law, the vehicle and traffic law and the public health law, in relation to enacting the "Gender Recognition Act"; and to repeal subdivision 1 of section 502 of the vehicle and traffic law relating to driver's licenses

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

Section 1. Short title. This act shall be known and may be cited as the "Gender Recognition Act".

§ 2. The civil rights law is amended by adding a new section 66 to read as follows:

§ 66. Change of name to conform to gender identity. 1. Any person may elect to assume a new name for purposes of changing their name to conform to their gender identity.

2. The proceeding for a change of name to conform the petitioner's name to the petitioner's gender identity is exempt from any requirement for publication.

§ 3. Subdivision 1 of section 502 of the vehicle and traffic law, as amended by chapter 487 of the laws of 2012, is REPEALED.

§ 4. Subdivision 1 of section 502 of the vehicle and traffic law, as amended by chapter 465 of the laws of 2012, the third undesignated paragraph as amended by chapter 248 of the laws of 2016, is amended to read as follows:

1. Application for license. Application for a driver's license shall be made to the commissioner. The fee prescribed by law may be submitted with such application. The applicant shall furnish such proof of identity, age, **gender category,** and fitness as may be required by the commissioner. **The applicant shall choose their gender category of male, female, or nonbinary, and the commissioner shall not require documenta-**

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

LBD03194-01-9

tion for an original driver's license applicant's initial choice of a gender category or a licensed applicant's request for an amendment to a gender category other than the following: the applicant's self-certification of their chosen gender category; or documentation required by this chapter as necessary to establish that an applicant is lawfully entitled to a license. The commissioner may also provide that the application procedure shall include the taking of a photo image or images of the applicant in accordance with rules and regulations prescribed by the commissioner. In addition, the commissioner also shall require that the applicant provide [~~his or her~~] such applicant's social security number, shall provide space so that the applicant may request a notation upon such license that the applicant is a veteran of the United States armed forces, and shall provide space on the application so that the applicant may register in the New York state organ and tissue donor registry under section forty-three hundred ten of the public health law with the following stated on the application in clear and conspicuous type:

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

The commissioner of health 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 eighteen years of age, checking "yes" shall not constitute consent to make an anatomical gift or registration in the donate life registry, except as otherwise provided pursuant to the provisions of paragraph (b) of subdivision one of section forty-three hundred one of the public health law. 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. In addition, an applicant for a commercial driver's license who will operate a commercial motor vehicle in interstate commerce shall certify that such applicant meets the requirements to operate a commercial motor vehicle, as set forth in public law 99-570, title XII, and title 49 of the code of federal regulations, and all regulations promulgated by the United States secretary of transportation under the hazardous materials transportation act. In addition, an applicant for a commercial driver's license shall submit a medical certificate at such intervals as required by the federal motor carrier safety improvement act of 1999 and Part 383.71(h) of title 49 of the code of federal regulations relating to medical certification and in a manner prescribed by the commissioner. For purposes of this section and sections five hundred three, five hundred ten-a, and five hundred ten-aa of this title, the terms "medical certificate" and "medical certification" shall mean a form substantially in compliance with the form set forth in Part 391.43(h) of title 49 of the code of federal regulations. Upon a determination that the holder of a commercial driver's license has made any false statement, with respect to the application for such license, the commissioner shall revoke such license.

§ 5. The section heading and paragraph (e) of subdivision 1 of section 4138 of the public health law, the section heading as amended by chapter 201 of the laws of 1972 and paragraph (e) of subdivision 1 as amended by chapter 214 of the laws of 1998, are amended and a new subdivision 8 is added to read as follows:

Birth certificate; new certificate in case of subsequent marriage of unwed parents; adoption; adjudication of parentage; change of name**; gender transition**.

(e) the certificate of birth of a child born out of wedlock as defined in paragraph (b) of subdivision one of section four thousand one hundred thirty-five of this article has been filed without entry of the name of the father and the commissioner thereafter receives the acknowledgment of paternity pursuant to section one hundred eleven-k of the social services law or section four thousand one hundred thirty-five-b of this article executed by the putative father and mother which authorizes the entry of the name of such father, and which may also authorize a conforming change in the surname of the child**; or,**

(f) proper proof is submitted to the commissioner from or by the clerk of a court of a competent jurisdiction to reflect a change of gender to female, male, or nonbinary pursuant to subdivision eight of this section.

8. The commissioner shall require that a petition pursuant to paragraph (f) of subdivision one of this section be accompanied by an affidavit attesting under penalty of perjury that the request for a change of gender to female, male, or nonbinary is to conform the person's legal gender to the person's gender identity and is not made for any fraudulent purpose. In addition, if applicable, the petition shall be accompanied by a certified copy of the court order from a competent jurisdiction changing the applicant's name pursuant to section sixty-six of the civil rights law.

§ 6. This act shall take effect on the one hundred eightieth day after it shall have become a law. 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 to be made and completed on or before such effective date.