

# STATE OF NEW YORK

4334

2021-2022 Regular Sessions

## IN SENATE

February 3, 2021

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

AN ACT to amend the vehicle and traffic law, in relation to presumed consent to organ and tissue donation; and to repeal certain provisions of such law relating to licensure of drivers

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

1 Section 1. Subdivision 2 of section 490 of the vehicle and traffic  
2 law, as amended by chapter 465 of the laws of 2012, the third undesignated  
3 paragraph as amended by chapter 248 of the laws of 2016, is  
4 amended to read as follows:

5 2. Application. Any person to whom a driver's license or learner's  
6 permit has not been issued by the commissioner, or whose driver's  
7 license or learner's permit is expired, suspended, revoked or surrendered,  
8 may make application to the commissioner for the issuance of an  
9 identification card. The commissioner shall [~~ensure that space is  
10 provided on the application so that the applicant shall register or  
11 decline registration in the donate life registry for organ and tissue  
12 donations pursuant to section forty three hundred ten of the public  
13 health law and that the following is stated on the application in clear  
14 and conspicuous type:~~

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

17 ~~The commissioner of health shall not maintain records of any person  
18 who checks "skip this question". Except where the application is made in  
19 person or electronically, failure to check a box shall not impair the  
20 validity of an application, and failure to check "yes" or checking "skip  
21 this question" shall not be construed to imply a wish not to donate. In  
22 the case of an applicant under eighteen years of age, checking "yes"  
23 shall not constitute consent to make an anatomical gift or registration~~

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

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1 ~~in the donate life registry, except as otherwise provided pursuant to~~  
2 ~~the provisions of paragraph (b) of subdivision one of section forty-~~  
3 ~~three hundred one of the public health law] modify the identification~~

4 card application and renewal process to advise all applicants that, at  
5 the time of applying for or renewing an identification card, the appli-  
6 cant shall be deemed to have consented to anatomical donation of his or  
7 her organs and tissue upon the determination of the applicant's legal  
8 death, unless the applicant expressly elects not to be an organ and  
9 tissue donor. The commissioner shall provide the following statement and  
10 instructions at the time of application or renewal of an applicant's  
11 identification card:

12 You are automatically deemed to have consented to being an organ  
13 and tissue donor and this designation will appear on your iden-  
14 tification card. If you do not want to be considered an organ  
15 and tissue donor, you must elect to not be included on the organ  
16 donor registry by inserting your initials on the line below.

17 \_\_\_\_\_ At this time, I do not wish to be included on the organ  
18 donor registry.

19 Unless an applicant responds that he or she does not want to be  
20 considered a possible organ and tissue donor, the applicant will be  
21 deemed to have consented to organ and tissue donation. The consent is  
22 sufficient to satisfy all requirements necessary to evidence the appli-  
23 cant's consent to anatomical donation of the applicant's organs and  
24 tissue. The commissioner shall advise each applicant who did not opt out  
25 of organ and tissue donation that the applicant's name shall be trans-  
26 mitted to the New York state donate life registry for organ, eye and  
27 tissue donations under section forty-three hundred ten of the public  
28 health law, and that the applicant shall notify the federally designated  
29 organ procurement organization of any changes to the applicant's  
30 donation. Where an applicant has previously consented to make an  
31 anatomical gift or registered in the donate life registry, [~~checking~~  
32 ~~"skip this question" or~~] failing to check a box shall not impair that  
33 consent or registration.

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

36 § 3. Subdivision 1 of section 502 of the vehicle and traffic law, as  
37 amended by chapter 37 of the laws of 2019, is amended to read as  
38 follows:

39 1. Application for license. Application for a driver's license shall  
40 be made to the commissioner. The fee prescribed by law may be submitted  
41 with such application. The applicant shall furnish such proof of identi-  
42 ty, age, and fitness as may be required by the commissioner. With  
43 respect to a non-commercial driver's license or learner's permit which  
44 does not meet federal standards for identification, in addition to the  
45 acceptable proofs of age and identity approved by the commissioner as of  
46 January first, two thousand nineteen, acceptable proof of identity shall  
47 also include, but not be limited to, a valid, unexpired foreign passport  
48 issued by the applicant's country of citizenship (which shall also be  
49 eligible as proof of age), a valid, unexpired consular identification  
50 document issued by a consulate from the applicant's country of citizen-  
51 ship, or a valid foreign driver's license that includes a photo image of  
52 the applicant and which is unexpired or expired for less than twenty-  
53 four months of its date of expiration, as primary forms of such proof.  
54 Nothing contained in this subdivision shall be deemed to preclude the  
55 commissioner from approving additional proofs of identity and age. The  
56 commissioner may also provide that the application procedure shall

1 include the taking of a photo image or images of the applicant in  
2 accordance with rules and regulations prescribed by the commissioner.  
3 The commissioner shall provide space so that the applicant may request a  
4 notation upon such license that he or she is a veteran of the United  
5 States armed forces. In addition, the commissioner also shall require  
6 that the applicant provide his or her social security number or, in lieu  
7 thereof, with respect to an application for a non-commercial driver's  
8 license or learner's permit which does not meet federal standards for  
9 identification, an affidavit signed by such applicant that they have not  
10 been issued a social security number. The commissioner also shall  
11 [~~provide space on the application so that the applicant may register in~~  
12 ~~the New York state organ and tissue donor registry under section forty-~~  
13 ~~three hundred ten of the public health law with the following stated on~~  
14 ~~the application in clear and conspicuous type:~~

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

18 ~~The commissioner of health shall not maintain records of any person~~  
19 ~~who checks "skip this question". Except where the application is made in~~  
20 ~~person or electronically, failure to check a box shall not impair the~~  
21 ~~validity of an application, and failure to check "yes" or checking "skip~~  
22 ~~this question" shall not be construed to imply a wish not to donate. In~~  
23 ~~the case of an applicant under eighteen years of age, checking "yes"~~  
24 ~~shall not constitute consent to make an anatomical gift or registration~~  
25 ~~in the donate life registry, except as otherwise provided pursuant to~~  
26 ~~the provisions of paragraph (b) of subdivision one of section forty-~~  
27 ~~three hundred one of the public health law. Where an applicant has~~  
28 ~~previously consented to make an anatomical gift or registered in the~~  
29 ~~donate life registry, checking "skip this question" or failing to check~~  
30 ~~a box shall not impair that consent or registration]~~ modify the driver's  
31 license application and renewal process to advise all applicants that,  
32 at the time of applying for or renewing a driver's license, the appli-  
33 cant shall be deemed to have consented to anatomical donation of his or  
34 her organs and tissue upon the determination of the applicant's legal  
35 death, unless the applicant expressly elects not to be an organ and  
36 tissue donor. The commissioner shall provide the following statement and  
37 instructions at the time of application or renewal of a driver's  
38 license.

39 You are automatically deemed to have consented to being an organ  
40 and tissue donor and this designation will appear on your driv-  
41 er's license. If you do not want to be considered an organ and  
42 tissue donor, you must elect to not be included on the organ  
43 donor registry by inserting your initials on the line below.

44 At this time, I do not wish to be included on the organ  
45 donor registry.

46 Unless an applicant responds that he or she does not want to be  
47 considered a possible organ and tissue donor, the applicant will be  
48 deemed to have consented to organ and tissue donation. The consent is  
49 sufficient to satisfy all requirements necessary to evidence the appli-  
50 cant's consent to anatomical donation of the applicant's organs and  
51 tissue. The commissioner shall advise each applicant who did not opt out  
52 of organ and tissue donation that the applicant's name shall be trans-  
53 mitted to the New York state donate life registry for organ, eye and  
54 tissue donations under section forty-three hundred ten of the public  
55 health law, and that the applicant shall notify the federally designated  
56 organ procurement organization of any changes to the applicant's

1 donation. In addition, an applicant for a commercial driver's license  
2 who will operate a commercial motor vehicle in interstate commerce shall  
3 certify that such applicant meets the requirements to operate a commer-  
4 cial motor vehicle, as set forth in public law 99-570, title XII, and  
5 title 49 of the code of federal regulations, and all regulations promul-  
6 gated by the United States secretary of transportation under the hazard-  
7 ous materials transportation act. In addition, an applicant for a  
8 commercial driver's license shall submit a medical certificate at such  
9 intervals as required by the federal motor carrier safety improvement  
10 act of 1999 and Part 383.71(h) of title 49 of the code of federal regu-  
11 lations relating to medical certification and in a manner prescribed by  
12 the commissioner. For purposes of this section and sections five  
13 hundred three, five hundred ten-a, and five hundred ten-aa of this  
14 title, the terms "medical certificate" and "medical certification" shall  
15 mean a form substantially in compliance with the form set forth in Part  
16 391.43(h) of title 49 of the code of federal regulations. Upon a deter-  
17 mination that the holder of a commercial driver's license has made any  
18 false statement, with respect to the application for such license, the  
19 commissioner shall revoke such license.

20 § 4. This act shall take effect on the one hundred eightieth day after  
21 it shall have become a law.