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:

Section 1. Subdivision 2 of section 490 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:

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

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

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~~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~~] modify the identification card application and renewal process to advise all applicants that, at the time of applying for or renewing an identification card, the applicant shall be deemed to have consented to anatomical donation of his or her organs and tissue upon the determination of the applicant's legal death, unless the applicant expressly elects not to be an organ and tissue donor. The commissioner shall provide the following statement and instructions at the time of application or renewal of an applicant's identification card:

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

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

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

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

§ 3. Subdivision 1 of section 502 of the vehicle and traffic law, as amended by chapter 37 of the laws of 2019, 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, and fitness as may be required by the commissioner. With respect to a non-commercial driver's license or learner's permit which does not meet federal standards for identification, in addition to the acceptable proofs of age and identity approved by the commissioner as of January first, two thousand nineteen, acceptable proof of identity shall also include, but not be limited to, a valid, unexpired foreign passport issued by the applicant's country of citizenship (which shall also be eligible as proof of age), a valid, unexpired consular identification document issued by a consulate from the applicant's country of citizenship, or a valid foreign driver's license that includes a photo image of the applicant and which is unexpired or expired for less than twenty-four months of its date of expiration, as primary forms of such proof. Nothing contained in this subdivision shall be deemed to preclude the commissioner from approving additional proofs of identity and age. 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. **The commissioner shall provide space so that the applicant may request a notation upon such license that he or she is a veteran of the United States armed forces.** In addition, the commissioner also shall require that the applicant provide his or her social security number or, in lieu thereof, with respect to an application for a non-commercial driver's license or learner's permit which does not meet federal standards for identification, an affidavit signed by such applicant that they have not been issued a social security number. The commissioner also 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~~] **modify the driver's license application and renewal process to advise all applicants that, at the time of applying for or renewing a driver's license, the applicant shall be deemed to have consented to anatomical donation of his or her organs and tissue upon the determination of the applicant's legal death, unless the applicant expressly elects not to be an organ and tissue donor. The commissioner shall provide the following statement and instructions at the time of application or renewal of a driver's license.**

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

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

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

donation. 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.

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