STATE OF NEW YORK

4447--B

2021-2022 Regular Sessions

IN SENATE

February 4, 2021

Introduced by Sens. JORDAN, AKSHAR, ORTT -- read twice and ordered printed, and when printed to be committed to the Committee on Transportation -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the vehicle and traffic law, in relation to driving privilege licenses and making technical corrections; to amend the election law, in relation to registering to vote on an application for a motor vehicle driver's license

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

Section 1. Section 501 of the vehicle and traffic law is amended by adding a new subdivision 7 to read as follows:

7. Driving privilege licenses. (a) The commissioner shall issue driving privilege licenses as provided in this article. Such license shall be valid only for the operation of a motor vehicle of a type which could be operated by the holder of the class of license for which application is being made, provided, however that no driving privilege license shall be issued which would be equivalent to a commercial driver's license.

(b) (i) No governmental entity shall accept a driving privilege license as proof of personal identification.

(ii) No driving privilege license shall be used as a document providing proof of a person's age for any government required purpose.

(iii) No driving privilege license shall be used as a document providing proof of a person's residency for any government required purpose.

§ 2. Subdivision 1 of section 502 of the vehicle and traffic law, as amended by chapter 440 of the laws of 2021, 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

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

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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~~] **driving privilege** 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. 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~~] **driving privilege** 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 request a notation upon such license that he or she is a veteran of the United States armed forces, and 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.

§ 2-a. Subdivision 1 of section 502 of the vehicle and traffic law, as separately amended by chapters 158 and 440 of the laws of 2021, 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~~] **driving privilege** 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 license shall display the sex designation of M, F, or X as certified by the applicant, with no additional documentation required. The applicant may amend the sex designation of their driver's license upon request. Upon amendment of the sex designation, the change shall be made consistent through all affiliated records within the control of the department. 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 such applicant's social security number or, in lieu thereof, with respect to an application for a [~~non-commercial driver's~~] **driving privilege** 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 request a notation upon such license that such applicant is a veteran of the United States armed forces, and space on the application so that the applicant may request a notation upon such license that he or she is a veteran of the United States armed forces, and 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.

§ 3. Paragraph (a) of subdivision 6 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:

(a) A license issued pursuant to subdivision five of this section shall be valid until the expiration date contained thereon, unless such license is suspended, revoked or cancelled. Such license may be renewed by submission of an application for renewal, the fee prescribed by law, proofs of prior licensing, fitness and acceptable vision prescribed by the commissioner, the applicant's social security number or, in lieu thereof, with respect to an application for a [~~non-commercial driver's~~] **driving privilege** 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, and if required by the commissioner, a photo image of the applicant in such numbers and form as the commissioner shall prescribe. In addition, an applicant for renewal of a license containing a hazardous material endorsement shall pass an examination to retain such endorsement. The commissioner shall, with respect to the renewal of a hazardous materials endorsement, comply with the requirements imposed upon states by sections 383.141 and 1572.13 of title 49 of the code of federal regulations. A renewal of such license shall be issued by the commissioner upon approval of such

application, except that no such license shall be issued if its issuance would be inconsistent with the provisions of section five hundred sixteen of this title, and except that the commissioner may refuse to renew such license if the applicant is the holder of a currently valid or renewable license to drive issued by another state or foreign country unless the applicant surrenders such license.

§ 4. Subdivision 8 of section 502 of the vehicle and traffic law, as added by chapter 37 of the laws of 2019, is amended to read as follows:

8. [~~Non-commercial drivers'~~] **Driving privilege** licenses and learners' permits which do not meet federal standards for identification. [~~(a) Non-commercial drivers'~~] **Driving privilege** licenses and learners' permits which do not meet federal standards for identification shall be issued in such form as the commissioner shall determine, provided that such licenses and permits shall be visually identical to [~~non-commercial drivers'~~] **driving privilege** licenses and learners' permits which do meet federal standards for identification except that such licenses and permits may state "Not for Federal Purposes". Provided, however, that the commissioner may promulgate regulations providing for additional design or color indicators for both such [~~non-commercial drivers'~~] **driving privilege** licenses and learners' permits if required to comply with federal law.

8-a. Driving privilege licenses and learners' permits applied for with alternative forms of identification. (a) Driving privilege licenses and learners' permits applied for with alternative forms of identification shall be issued in such form as the commissioner shall determine, provided that such licenses and permits shall be visually distinct to non-commercial drivers' licenses and learners' permits which do meet federal standards for identification including, but not limited to, that such licenses and permits shall state a phrase substantially similar to "FOR DRIVING PRIVILEGES ONLY - NOT VALID FOR IDENTIFICATION". Provided, however, that the commissioner may promulgate regulations providing for additional design or color indicators for driving privilege licenses and learners' permits applied for with alternative forms of identification if required to comply with federal law. As used in this section "alternative forms of identification" shall mean a valid, unexpired foreign passport issued by an 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.

(b) Applicants for a [~~non-commercial driver's~~] **driving privilege** license or learner's permit **applied for with alternative forms of identification** or a renewal thereof shall not be required to prove that they are lawfully present in the United States.

(c) Application forms for [~~non-commercial drivers'~~] **driving privilege** licenses and learners' permits [~~which do not meet federal standards for~~] **applied for with alternative forms of** identification or for renewal thereof shall not state (i) the documents an applicant used to prove age or identity, or (ii) an applicant's ineligibility for a social security number where applicable, or (iii) an applicant's citizenship or immigration status.

(d) The commissioner and any agent or employee of the commissioner shall not retain the documents or copies of documents presented by applicants for [~~non-commercial drivers'~~] **driving privilege** licenses or learners' permits [~~which do not meet federal standards for~~] **applied for**

with alternative forms of identification to prove age or identity except for a limited period necessary to ensure the validity and authenticity of such documents.

(e) (i) A [~~non-commercial driver's~~] driving privilege license or learner's permit [~~which does not meet federal standards for~~] applied for with alternative forms of identification shall not be used as evidence of a person's citizenship or immigration status, and shall not be the basis for investigating, arresting, or detaining a person. (ii) Neither the commissioner nor any agent or employee of the commissioner shall inquire about the citizenship or immigration status of any applicant for a [~~non-commercial driver's~~] driving privilege license or learner's permit [~~which does not meet federal standards for~~] applied for with alternative forms of identification.

§ 5. Subdivision 3 of section 5-212 of the election law, as added by chapter 659 of the laws of 1994, is amended to read as follows:

3. The voter registration portion of such forms:

(a) shall not require any information that duplicates the information required on the application for the driver license portion and shall require only such additional information, including the applicant's signature, as will enable election officials to assess the applicant's eligibility to register to vote, prevent duplicate registration and to administer voter registration and other parts of the election process.

(b) shall include a statement of the eligibility requirements for voter registration and shall require the applicant to attest by his or her signature that he or she meets those requirements under penalty of perjury.

(c) shall inform the applicant, in print identical to that used in the attestation section of the following:

(i) voter eligibility requirements;

(ii) penalties for submission of false registration application;

(iii) that the office where applicant registers shall remain confidential and the information be used only for voter registration purposes;

(iv) if the applicant declines to register, his or her declination shall remain confidential and be used only for voter registration purposes[~~;~~].

(d) notwithstanding any provision of law to the contrary, shall require the applicant to provide his or her social security number.

§ 6. This act shall take effect immediately; provided, however, that the amendments to subdivision 1 of section 502 of the vehicle and traffic law made by section two of this act shall be subject to the expiration of such subdivision, when upon such date the provisions of section two-a of this act shall take effect.