

2005 NY A.B. 11883

NEW YORK 229TH ANNUAL LEGISLATIVE SESSION

ASSEMBLY BILL 11883

STATE OF NEW YORK

11883

IN ASSEMBLY

JUNE 14, 2006

INTRODUCED BY COMMITTEE ON RULES -- (AT REQUEST OF M. OF A. SCHIMMINGER,
GOTTFRIED, HOYT, CONTE) -- READ ONCE AND REFERRED TO THE COMMITTEE ON HEALTH

VERSION: Enacted

VERSION-DATE: August 16, 2006

SYNOPSIS: AN ACT to amend the public health law and the vehicle and traffic law, in relation to anatomical gifts

NOTICE:

[A> UPPERCASE TEXT WITHIN THESE SYMBOLS IS ADDED <A]

[D> Text within these symbols is deleted <D]

TEXT: THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Subdivisions 1 and 3 of section 4301 of the public health law, as amended by chapter 62 of the laws of 1994, are amended to read as follows:

1. Any individual of sound mind and eighteen years of age or more may give all or any part of his [A> OR HER <A] body for any purpose specified in section four thousand three hundred two of this article, the gift to take effect upon death. In any case where the donor has properly executed an organ donor card, driver's license authorization to make an anatomical gift, pursuant to paragraph (a) of subdivision one of section five hundred four of the vehicle and traffic law, [A> REGISTERED IN THE NEW YORK STATE ORGAN AND TISSUE DONOR REGISTRY UNDER SECTION FORTY-THREE HUNDRED TEN OF THIS ARTICLE, <A] or has otherwise given written authorization for organ or tissue donation, authorization for donation shall not be rescinded by an objection by a member of any of the classes specified in paragraphs (a) through (f) of subdivision two of this section, except upon a showing that the donor revoked the authorization.

3. The donee shall not accept the gift under the following circumstances:

(a) the donee has actual notice of contrary indication by the decedent;

(b) where the donor has not properly executed an organ donor card, driver's license authorization to make an anatomical gift, pursuant to paragraph (a) of subdivision one of section five hundred four of the vehicle and traffic law, [A> REGISTERED IN THE NEW YORK STATE ORGAN AND TISSUE DONOR REGISTRY UNDER SECTION FORTY-THREE HUNDRED TEN OF THIS ARTICLE, <A] or otherwise given written authorization for organ or tissue donation, or has revoked any such authorization, and the gift is opposed by a person or persons in the highest priority available of the classes specified in paragraph (a), (b), (c), (d) or (e) of subdivision two of this section; or

(c) the donee has reason to believe that an anatomical gift is contrary to the decedent's religious or moral beliefs.

Section 2. Section 4310 of the public health law, as added by chapter 454 of the laws of 2004, is amended to read as follows:

Section 4310. New York state organ and tissue donor registry. 1. The department shall establish an organ and tissue donor registry which shall contain a listing of all donors who have declared their [D> intent <D] [A> CONSENT <A] to make an anatomical gift [D> in order to facilitate increased organ donation <D] .

2. Such registration of [D> intent <D] [A> CONSENT <A] to make an anatomical gift can be made through (a) indication made on the application or renewal form of a license, (b) indication made on a non-driver identification card application or renewal form, (c) enrolling in the registry website maintained by the department, or (d) through any other method identified by the commissioner. [A> THE REGISTRATION SHALL TAKE EFFECT UPON THE DEPARTMENT SENDING WRITTEN NOTICE OF THE REGISTRATION TO THE PERSON ENROLLING IN THE REGISTRY. <A]

3. (a) Information contained in the registry shall be accessible to (i) federally regulated organ procurement agencies, (ii) eye and tissue banks licensed by the department pursuant to article forty-three-B of this chapter, (iii) any other entity formally approved by the commissioner.

(b) The information contained in the registry shall not be released to any person except as expressly authorized by this section solely for the purpose of identifying potential organ and tissue donors at or near the time of death.

4. If the department had an established registry prior to the effective date of this section, it shall be deemed to meet the requirements of this section.

[A> 5. THE REGISTRY SHALL PROVIDE PERSONS ENROLLED THE OPPORTUNITY TO SPECIFY WHICH ORGANS AND TISSUES THEY WANT TO DONATE AND IF THE DONATION CAN BE USED FOR TRANSPLANTATION, RESEARCH, OR BOTH. <A]

[A> 6. A PERSON REGISTERED IN THE ORGAN AND TISSUE REGISTRY BEFORE THE EFFECTIVE DATE OF THIS SUBDIVISION SHALL BE DEEMED TO HAVE EXPRESSED INTENT TO DONATE, UNTIL AND UNLESS HE OR SHE FILES AN AMENDMENT TO HIS OR HER REGISTRATION OR A NEW REGISTRATION EXPRESSING CONSENT TO DONATE. <A]

[A> 7. THE COMMISSIONER SHALL CONTACT EACH PERSON REGISTERED BEFORE THE EFFECTIVE DATE OF THIS SUBDIVISION IN THE ORGAN AND TISSUE REGISTRY IN WRITING TO INFORM HIM OR HER THAT AT THE TIME HE OR SHE REGISTERED, THE REGISTRY WAS THAT OF INTENT AND THAT THE REGISTRY IS NOW ONE OF CONSENT, TO EXPLAIN IN CLEAR AND UNDERSTANDABLE TERMS THE DIFFERENCE BETWEEN INTENT AND CONSENT, AND TO PROVIDE OPPORTUNITY FOR THE PERSON TO CHANGE HIS OR HER REGISTRATION TO PROVIDE CONSENT BY AMENDING HIS OR HER CURRENT REGISTRATION OR EXECUTING A NEW REGISTRATION. <A]

[A> 8. <A] The commissioner is authorized to promulgate [D> any <D] rules and regulations necessary to implement the provisions of this section.

Section 3. Subdivision 4 of section 4351 of the public health law, as added by chapter 668 of the laws of 1997, is amended to read as follows:

4. Where a patient is a suitable candidate for organ, eye or tissue donation and where the patient has not properly executed an organ donor card, driver's license authorization to make an anatomical gift, pursuant to paragraph (a) of subdivision one of section five hundred four of the vehicle and traffic law, [A> REGISTERED IN THE NEW YORK STATE ORGAN AND TISSUE REGISTRY UNDER SECTION FORTY-THREE HUNDRED TEN OF THIS ARTICLE, <A] or otherwise given written authorization for organ, eye or tissue donation, the hospital or its designee shall cause a timely request to be made to any of the following persons, in order of priority stated,

when persons in prior classes are not available and in the absence of actual notice of contrary intentions by the decedent, or actual notice of opposition by a person or persons in the highest priority available of the classes specified in paragraph (a), (b), (c), (d), or (e) of this subdivision, or other reason to believe that an anatomic gift is contrary to the decedent's religious beliefs, to consent to the gift of all or any part of the decedent's body for any purpose specified in article forty-three of this chapter:

- (a) the spouse;
- (b) a son or daughter eighteen years of age or older;
- (c) either parent;
- (d) a brother or sister eighteen years of age or older;
- (e) a guardian of the person of the decedent at the time of his [A> OR HER <A] death.

Section 4. Subdivision 1 of section 502 of the vehicle and traffic law, as amended by chapter 81 of the laws of 1995, 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. 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 [A> AND 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 <A] . 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. 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.

Section 5. Paragraph (a) of subdivision 1 of section 504 of the vehicle and traffic law, as amended by chapter 173 of the laws of 1990, is amended to read as follows:

(a) Every license or renewal thereof shall contain a distinguishing [D> number or <D] mark and adequate space upon which an anatomical gift, pursuant to [D> article forty-three <D] [A> SECTION FORTY-THREE HUNDRED TEN <A] of the public health law, by the licensee shall be recorded and shall contain such other information and shall be issued in such form as the commissioner shall determine; provided, however, every license or renewal thereof issued to a person under the age of twenty-one years shall have prominently imprinted upon it the statement "UNDER 21 YEARS OF AGE" in notably distinctive print or format. The commissioner shall not require fees for the issuance of such licenses or renewals thereof to persons under twenty-one years of age which are different from the fees required for the issuance of licenses or renewals thereof to persons twenty-one years of age or over.

Section 6. This act shall take effect on the one hundred eightieth day after it shall have become a law; provided that the commissioner of health and the commissioner of motor vehicles shall take all actions necessary to implement the provisions of this act on or before such effective date.

SPONSOR:
Assembly Committee on Rules