

LEGISLATIVE BILL 559

Approved by the Governor April 15, 2004

Introduced by Baker, 44

AN ACT relating to organ and tissue donation; to amend sections 60-493, 60-494, and 60-2907, Revised Statutes Supplement, 2002, and sections 60-484, 60-4,144, and 60-4,181, Revised Statutes Supplement, 2003; to provide for the Donor Registry of Nebraska; to authorize the Department of Motor Vehicles to transfer certain motor vehicle operator's license and state identification card information; to change provisions relating to donor notations on such licenses and cards; to create an advisory board; to harmonize provisions; to provide an operative date; to repeal the original sections; and to declare an emergency.

Be it enacted by the people of the State of Nebraska,

Section 1. Section 60-484, Revised Statutes Supplement, 2003, is amended to read:

60-484. (1) Except as otherwise provided in the Motor Vehicle Operator's License Act, no resident of the State of Nebraska shall operate a motor vehicle upon the alleys or highways of the State of Nebraska until the person has obtained an operator's license for that purpose.

(2) Application for an operator's license may be made on uniform blanks prepared and furnished by the director to the county treasurers and the examiners of the Department of Motor Vehicles prior to January 1, 2003. Such application may be made to an examiner in any county. The standard application blanks shall be sufficient in form and content to substantially carry out the purposes of the act.

(3) ~~Beginning October 1, 2000, application~~ Application for an operator's license may also be made in a manner prescribed by the department. Such application may be made to an examiner in any county. The examiner shall personally conduct the examination of the applicant and deliver to each successful applicant an examiner's certificate containing the statements made pursuant to subsection (4) of this section.

(4) In addition to any other information and questions necessary to comply with the requirements and purposes of the act, the applicant (a) shall provide his or her name, age, post office address, place of residence unless the applicant is a program participant under the Address Confidentiality Act, date of birth, sex, social security number, and brief description of himself or herself, (b) may complete the voter registration portion pursuant to section 32-308, (c) shall be provided the advisement language required by subsection (10) of section 60-6,197, (d) shall answer the following:

(i) Have you within the last three months (e.g. due to diabetes, epilepsy, mental illness, head injury, stroke, heart condition, neurological disease, etc.):

- (A) lost voluntary control or consciousness ... yes ... no
- (B) experienced vertigo or multiple episodes of dizziness or fainting ... yes ... no
- (C) experienced disorientation ... yes ... no
- (D) experienced seizures ... yes ... no
- (E) experienced impairment of memory, memory loss ... yes ... no

Please explain:

(ii) Do you experience any condition which affects your ability to operate a motor vehicle? (e.g. due to loss of, or impairment of, foot, leg, hand, arm; neurological or neuromuscular disease, etc.) ... yes ... no

Please explain:

(iii) Since the issuance of your last driver's license/permit has your health or medical condition changed or worsened? ... yes ... no

Please explain, including how the above affects your ability to drive:, and (e) may answer the following:

(i) Do you wish to register to vote as part of this application process?

OPTIONAL - YOU ARE NOT REQUIRED TO ANSWER ANY OF THE FOLLOWING QUESTIONS:

(ii) Do you wish to be an organ and tissue donor?

(iii) Do you wish to receive any additional specific information regarding organ and tissue donation and the Donor Registry of Nebraska?

(iv) Do you wish to donate \$1 to promote the Organ and Tissue Donor Awareness and Education Fund?

(5) Application for an operator's license shall be made under oath or affirmation of the applicant.

(6) The social security number shall not be printed on the operator's license and shall be used only (a) to furnish driver record information to the United States Selective Service System under section 60-483, (b) with the permission of the director in connection with the verification of the status of an individual's driving record in this state or any other state, or (c) for purposes of child support enforcement pursuant to section 42-358.08 or 43-512.06.

(7) (a) Except for an individual under the age of eighteen years, each individual applying for an operator's license or a state identification card shall furnish proof of date of birth and identity by a valid Nebraska operator's license, a valid Nebraska learner's permit, a valid Nebraska school permit, a valid operator's license from another state or jurisdiction of the United States, a certified birth certificate, a certified birth registration, a valid United States passport, a valid United States military identification card, United States military discharge papers, other United States-based identification as approved by the director, or information preserved in the digital system implemented under section 60-484.01.

(b) Any individual under the age of eighteen years applying for an operator's license or a state identification card shall provide a certified copy of his or her birth certificate, a certified birth registration, or other reliable proof of his or her identity and age accompanied by a certification signed by a parent or guardian explaining the inability to produce a copy of such birth certificate. The applicant may be required to furnish proof to the examiner that the parent or guardian signing the certification is in fact the parent or guardian of such applicant.

Sec. 2. Section 60-493, Revised Statutes Supplement, 2002, is amended to read:

60-493. When a person applies for an operator's license or state identification card, the county treasurer or examiner of the Department of Motor Vehicles shall distribute a brochure provided by an organ and tissue ~~recovery~~ agency procurement organization and approved by the Department of Health and Human Services Regulation and Licensure containing a description and explanation of the Uniform Anatomical Gift Act to each person applying for a new or renewal license or card. ~~Beginning October 1, 2000, the brochure shall include the information prescribed in subsection (1) of section 60-494.~~

If an individual desires to receive additional specific information regarding organ and tissue donation and the Donor Registry of Nebraska as indicated on an application or examiner's certificate under section 60-484, 60-4,144, or 60-4,181, the department shall notify a representative of the Nebraska Organ Retrieval System federally designated organ procurement organization in Nebraska within five working days of the name and address of such individual.

Sec. 3. Section 60-494, Revised Statutes Supplement, 2002, is amended to read:

60-494. (1) Each operator's license and state identification card shall include a special ~~notification~~ notation on the front of the license or card if the licensee or cardholder desires to make an organ and tissue donation indicates on the application or examiner's certificate under section 60-484, 60-4,144, or 60-4,181 his or her wish to be an organ donor, a tissue donor, or both.

(2) The organ and tissue donation status as an organ donor, a tissue donor, or both shall be renewed upon renewal of each license or card ~~only~~ if the licensee or cardholder, at the time of renewal, indicates the desire to renew the organ and tissue donation.

(3) ~~No licensee or cardholder shall be deemed to have authorized an organ and tissue donation if status and the notation authorized in subsection (1) of this section has not been marked. The status as an organ donor, a tissue donor, or both is not changed by the suspension, cancellation, revocation, or impoundment of the license or card.~~

~~(4)~~ (3) Any person whose operator's license or state identification card indicates that he or she desires to make an organ and tissue donation his or her status as an organ donor, a tissue donor, or both may obtain a replacement license or card changing his or her status to that of a nondonor without a notation of such status. The fee for such replacement license or card shall be the fee provided in section 60-4,115.

(4) A licensee or cardholder may also change his or her status as a donor by (a) Internet access to the Donor Registry of Nebraska, (b) telephone request to the registry, or (c) other methods approved by the federally designated organ procurement organization in Nebraska.

(5) The Department of Motor Vehicles shall electronically transfer

to the federally designated organ procurement organization in Nebraska all information which appears on the face of an original or replacement operator's license or state identification card except the image and signature of each person whose license or card includes the notation described in subsection (1) of this section.

Sec. 4. Section 60-4,144, Revised Statutes Supplement, 2003, is amended to read:

60-4,144. (1) Application for any original or renewal commercial driver's license or application for any change of class of commercial motor vehicle, endorsement, or restriction may be made in a manner prescribed by the department. Such application may be made to an examiner in any county. The examiner shall personally conduct the examination of the applicant and deliver to each successful applicant an examiner's certificate containing the statements made pursuant to subsection (2) of this section.

(2) The application or examiner's certificate shall include the voter registration portion pursuant to section 32-308, the advisement language required by subsection (10) of section 60-6,197, and the following:

(a) The full name, the current mailing address, and the residential address of the applicant, except that if the applicant is a program participant under the Address Confidentiality Act, he or she need not supply his or her residential address;

(b) A physical description of the applicant, including sex, height, weight, and eye and hair colors;

(c) The applicant's date of birth;

(d) The applicant's social security number;

(e) The applicant's signature;

(f) Certification that the commercial motor vehicle in which the applicant takes any driving skills examination is representative of the class of commercial motor vehicle that the applicant operates or expects to operate;

(g) The certification required pursuant to section 60-4,145 or 60-4,146;

(h) Beginning September 30, 2005, the names of all states where the applicant has previously been licensed to operate any type of motor vehicle;

(i) The following specific questions:

(i) Have you within the last three months (e.g. due to diabetes, epilepsy, mental illness, head injury, stroke, heart condition, neurological disease, etc.):

(A) lost voluntary control or consciousness ... yes ... no

(B) experienced vertigo or multiple episodes of dizziness or fainting ... yes ... no

(C) experienced disorientation ... yes ... no

(D) experienced seizures ... yes ... no

(E) experienced impairment of memory, memory loss ... yes ... no

Please explain:

(ii) Do you experience any condition which affects your ability to operate a motor vehicle? (e.g. due to loss of or impairment of foot, leg, hand, or arm; neurological or neuromuscular disease, etc.) ... yes ... no

Please explain:

(iii) Since the issuance of your last driver's license/permit has your health or medical condition changed or worsened? ... yes ... no

Please explain, including how the above affects your ability to drive:

(j) Do you wish to register to vote as part of this application process?

OPTIONAL - YOU ARE NOT REQUIRED TO ANSWER ANY OF THE FOLLOWING QUESTIONS:

(k) Do you wish to be an organ and tissue donor?

(l) Do you wish to receive any additional specific information regarding organ and tissue donation and the Donor Registry of Nebraska?

(m) Do you wish to donate \$1 to promote the Organ and Tissue Donor Awareness and Education Fund?

(3) Application shall be made under oath or affirmation of the applicant.

Sec. 5. Section 60-4,181, Revised Statutes Supplement, 2003, is amended to read:

60-4,181. (1) A state identification card shall be issued by the county treasurer after the person requesting the card (a) files an application or examiner's certificate with an examining officer, (b) furnishes two forms of proof of identification described in section 60-484, and (c) pays the fee prescribed in section 60-4,115 to the county treasurer. The state identification card shall contain the organ and tissue donor information specified in section 60-494.

(2) The application or examiner's certificate shall include the

name, age, post office address, place of residence unless the applicant is a program participant under the Address Confidentiality Act, date of birth, sex, social security number, and physical description of the applicant, the voter registration portion pursuant to section 32-308, and the following:

(a) Do you wish to register to vote as part of this application process?

(b) Do you wish to be an organ and tissue donor?

(c) Do you wish to receive any additional specific information regarding organ and tissue donation and the Donor Registry of Nebraska?

(d) Do you wish to donate \$1 to promote the Organ and Tissue Donor Awareness and Education Fund?

(3) The director may summarily cancel any state identification card, and any judge or magistrate may order a state identification card canceled in a judgment of conviction, if the application or examiner's certificate for the card contains any false or fraudulent statements which were deliberately and knowingly made as to any matter material to the issuance of the card or if the application or examiner's certificate does not contain required or correct information. Any state identification card so obtained shall be void from the date of issuance. Any judgment of conviction ordering cancellation of a state identification card shall be transmitted to the director who shall cancel the card.

(4) Machine-readable information encoded on a state identification card shall be limited to the information appearing on the face of the card.

Sec. 6. Section 60-2907, Revised Statutes Supplement, 2002, is amended to read:

60-2907. The department and any officer, employee, agent, or contractor of the department having custody of a motor vehicle record shall, upon the verification of identity and purpose of a requester, disclose and make available the requested motor vehicle record, including the personal information in the record, for the following purposes:

(1) For use by any federal, state, or local governmental agency, including any court or law enforcement agency, in carrying out the agency's functions or by a private person or entity acting on behalf of a governmental agency in carrying out the agency's functions;

(2) For use in connection with matters of motor vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance monitoring of motor vehicles, motor vehicle parts, and dealers; motor vehicle market research activities, including survey research; and removal of nonowner records from the original owner records of motor vehicle manufacturers;

(3) For use in the normal course of business by a legitimate business or its agents, employees, or contractors but only:

(a) To verify the accuracy of personal information submitted by the individual to the business or its agents, employees, or contractors; and

(b) If such information as so submitted is not correct or is no longer correct, to obtain the correct information, but only for the purposes of preventing fraud by, pursuing legal remedies against, or recovering on a debt or security interest against, the individual;

(4) For use in connection with any civil, criminal, administrative, or arbitral proceeding in any federal, state, or local court or governmental agency or before any self-regulatory body, including service of process, investigation in anticipation of litigation, and execution or enforcement of judgments and orders, or pursuant to an order of a federal, state, or local court, an administrative agency, or a self-regulatory body;

(5) For use in research activities, and for use in producing statistical reports, so long as the personal information is not published, redisclosed, or used to contact individuals;

(6) For use by any insurer or insurance support organization, or by a self-insured entity, or its agents, employees, or contractors, in connection with claims investigation activities, anti-fraud activities, rating, or underwriting;

(7) For use in providing notice to the owners of abandoned, towed, or impounded vehicles;

(8) For use only for a purpose permitted under this section either by a private detective, plain clothes investigator, or private investigative agency licensed under sections 71-3201 to 71-3213;

(9) For use by an employer or the employer's agent or insurer to obtain or verify information relating to a holder of a commercial driver's license that is required under the Commercial Motor Vehicle Safety Act of 1986, 49 U.S.C. 31301 et seq., or pursuant to sections 60-4,132 and 60-4,141;

(10) For use in connection with the operation of private toll transportation facilities;

(11) For bulk distribution for surveys of, marketing to, or solicitations of persons who have expressly consented to such disclosure if the requester has obtained the notarized written consent of the individual who is the subject of the personal information being requested and has provided proof of receipt of such written consent to the department or an officer, employee, agent, or contractor of the department on a form prescribed by the department;

(12) For any use if the requester has obtained the notarized written consent of the individual who is the subject of the personal information being requested and has provided proof of receipt of such written consent to the department or an officer, employee, agent, or contractor of the department;

(13) For use, including redisclosure through news publication, of a member of a medium of communication as defined in section 20-145 who requests such information in connection with preparing, researching, gathering, or confirming news information involving motor vehicle or driver safety or motor vehicle theft;

(14) For use by the federally designated organ procurement organization in Nebraska to establish and maintain the Donor Registry of Nebraska as provided in section 7 of this act; and

~~(14)~~ (15) For any other use specifically authorized by law that is related to the operation of a motor vehicle or public safety.

Sec. 7. (1) The federally designated organ procurement organization in Nebraska shall use the information received from the Department of Motor Vehicles under section 60-494 to establish and maintain the Donor Registry of Nebraska. Transplant facilities may obtain needed information from such organization for placement of organs and tissue. Federally designated organ procurement agencies and cadaveric tissue agencies in other states may obtain information from such organization when a Nebraska resident is listed as a donor on the registry and is not located in Nebraska immediately preceding or at the time of his or her death. The federally designated organ procurement organization in Nebraska may receive donor information from sources other than the Department of Motor Vehicles and shall pay all costs associated with creating and maintaining the registry.

(2) It is the intent of the Legislature that the registry facilitate organ and tissue donations and not inhibit such donations. A person does not need to be listed on the registry to be an organ and tissue donor.

(3) No person shall obtain information from the registry for the purpose of fundraising or other commercial use. Information obtained from the registry may only be used to facilitate the donation process at the time of the donor's death. General statistical information may be provided upon request to the federally designated organ procurement organization in Nebraska.

Sec. 8. (1) The Donor Registry of Nebraska Advisory Board is created. The advisory board shall consist of:

(a) A member of the board of directors of the federally designated organ procurement organization in Nebraska who shall serve as the chairperson of the advisory board;

(b) A representative of the Nebraska Organ and Tissue Donor Coalition appointed by the board of directors of the coalition;

(c) A representative of the Lion's Eye Bank of Nebraska appointed by the board of directors of such organization;

(d) A representative of each transplant hospital in Nebraska appointed by the chief executive officer of such hospital;

(e) A representative of a Nebraska community hospital in Nebraska appointed by the Nebraska Hospital Association;

(f) A representative of the National Kidney Foundation of Nebraska appointed by the board of directors of such organization;

(g) A representative of the American Lung Association of Nebraska appointed by the board of directors of such organization;

(h) A representative of the Nebraska chapter of the American Heart Association appointed by the board of directors of such organization; and

(i) A representative of the Department of Motor Vehicles appointed by the Director of Motor Vehicles.

(2) The federally designated organ procurement organization in Nebraska shall provide administrative support for the advisory board.

(3) The advisory board shall advise and assist the federally designated organ procurement organization in Nebraska on matters relating to the Donor Registry of Nebraska, including, but not limited to, (a) evaluation of the donor registry system, (b) consideration of processes and procedures to increase public awareness and use of the registry, and (c) the development of protocols to ensure the security and integrity of the registry and the confidentiality of donors listed on the registry.

Sec. 9. This act becomes operative on July 1, 2004.

Sec. 10. Original sections 60-493, 60-494, and 60-2907, Revised Statutes Supplement, 2002, and sections 60-484, 60-4,144, and 60-4,181, Revised Statutes Supplement, 2003, are repealed.

Sec. 11. Since an emergency exists, this act takes effect when passed and approved according to law.