

CHAPTER 80

AN ACT concerning organ donation and amending P.L.1978, c.181 , P.L.1997, c.188 and P.L.1969, c.161.

BE IT ENACTED *by the Senate and General Assembly of the State of New Jersey:*

1. Section 1 of P.L.1978, c.181 (C.39:3-12.2) is amended to read as follows:

C.39:3-12.2 License to include designation as organ donor; education program for employees, personnel of organ procurement organization; access to information.

1. a. The Chief Administrator of the New Jersey Motor Vehicle Commission shall provide with every new license, renewal license, identification card or renewal identification card the opportunity for each person pursuant to the provisions of the "Uniform Anatomical Gift Act," P.L.1969, c.161 (C.26:6-57 et al.), to designate that the person shall donate all or any body organs or parts for the purposes of transplantation, therapy, medical research or education upon his death.

b. The designation indicating that a person is a donor pursuant to subsection a. of this section shall be done in accordance with procedures prescribed by the chief administrator. The designation shall be displayed in print in a conspicuous form and manner on the license or identification card, and electronically, by substantially the following statement: "ORGAN DONOR" and shall constitute sufficient legal authority for the removal of a body organ or part upon the death of the licensee or identification cardholder. The designation shall be removed in accordance with procedures prescribed by the chief administrator.

c. (Deleted by amendment, P.L.1999, c.28).

d. (Deleted by amendment, P.L.2007, c.80).

e. The chief administrator, in consultation with those organ procurement organizations designated pursuant to 42 U.S.C. s.1320b-8 to serve in the State of New Jersey, shall establish and provide an annual education program for agency employees and personnel. The program shall focus on the benefits associated with organ and tissue donations, the scope and operation of New Jersey's donor program, and how the agency's employees and personnel can effectively inform the public about the donor program and can best assist those wishing to participate in the donor program.

f. The chief administrator shall electronically record and store all organ donor designations and identification information, and shall provide the organ procurement organizations designated pursuant to 42 U.S.C. s.1320b-8 to serve in the State of New Jersey with real-time electronic access to the organ donor designation information collected pursuant to subsection a. of this section. An organ procurement organization designated pursuant to 42 U.S.C. s.1320b-8 to serve in the State of New Jersey, or any donor registry established by any such organization, shall have real time electronic access to those organ donor designations and identification at all times, without exception, for the purposes of verifying organ and tissue donation status and identity. For these purposes, the federally designated organ procurement organization shall have electronic access to each recorded donor's name, address, date of birth, gender, color of eyes, height, and driver's license number. Upon request, the chief administrator shall provide a copy of the donor's original driver's license application.

g. Those organ procurement organizations designated pursuant to 42 U.S.C. s.1320b-8 to serve in the State of New Jersey may contract with a third party, in consultation with the chief administrator, to assess, develop, and implement any system set-up necessary to support the initial and ongoing electronic access by those organizations to the donor

designation and identification information required to be made available in accordance with the provisions of this section; however, the organ procurement organizations shall not be required to incur an aggregate cost in excess of \$50,000 for the purposes of this subsection.

2. Section 2 of P.L.1997, c.188 (C.39:2-3.4) is amended to read as follows:

C.39:2-3.4 Disclosure of personal information connected with motor vehicle record.

2. a. Notwithstanding the provisions of P.L.1963, c.73 (C.47:1A-1 et seq.) or any other law to the contrary, except as provided in this act, the Motor Vehicle Commission and any officer, employee or contractor thereof shall not knowingly disclose or otherwise make available to any person personal information about any individual obtained by the commission in connection with a motor vehicle record.

b. A person requesting a motor vehicle record including personal information shall produce proper identification and shall complete and submit a written request form provided by the chief administrator for the commission's approval. The written request form shall bear notice that the making of false statements therein is punishable and shall include, but not be limited to, the requestor's name and address; the requestor's driver's license number or corporate identification number; the requestor's reason for requesting the record; the driver's license number or the name, address and birth date of the person whose driver record is requested; the license plate number or VIN number of the vehicle for which a record is requested; any additional information determined by the chief administrator to be appropriate and the requestor's certification as to the truth of the foregoing statements. Prior to the approval of the written request form, the commission may also require the requestor to submit documentary evidence supporting the reason for the request.

In lieu of completing a written request form for each record requested, the commission may permit a person to complete and submit for approval of the chief administrator or the chief administrator's designee, on a case by case basis, a written application form for participation in a public information program on an ongoing basis. The written application form shall bear notice that the making of false statements therein is punishable and shall include, but not be limited to, the applicant's name, address and telephone number; the nature of the applicant's business activity; a description of each of the applicant's intended uses of the information contained in the motor vehicle records to be requested; the number of employees with access to the information; the name, title and signature of the authorized company representative; and any additional information determined by the chief administrator to be appropriate. The chief administrator may also require the applicant to submit a copy of its business credentials, such as license to do business or certificate of incorporation. Prior to approval by the chief administrator or the chief administrator's designee, the applicant shall certify in writing as to the truth of all statements contained in the completed application form.

c. Personal information shall be disclosed 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 and dealers by motor vehicle manufacturers; and removal of non-owner records from the original owner records of motor vehicle manufacturers to carry out the purposes of the Automobile Information Disclosure Act, Pub.L.85-506, the Motor Vehicle Information and Cost Saving Act, Pub.L.92-513, the National Traffic and Motor Vehicle Safety Act of 1966, Pub.L.89-563, the Anti-Car Theft Act of 1992, Pub.L.102-519, and the Clean Air Act, Pub.L.88-206, and may be disclosed as follows:

(1) For use by any government agency, including any court or law enforcement agency in carrying out its functions, or any private person or entity acting on behalf of a federal, State or local agency in carrying out its 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 the removal of non-owner 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 agency or before any self-regulatory body, including service of process, investigation in anticipation of litigation, and the execution or enforcement of judgments and orders, or pursuant to an order of a federal, State or local court.

(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, antifraud activities, rating or underwriting.

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

(8) For use by an employer or its 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," 49 U.S.C.App.s.2710 et seq.

(9) For use in connection with the operation of private toll transportation facilities.

(10) For use by any requestor, if the requestor demonstrates it has obtained the notarized written consent of the individual to whom the information pertains.

(11) For product and service mail communications from automotive-related manufacturers, dealers and businesses, if the commission has implemented methods and procedures to ensure that:

(a) individuals are provided an opportunity, in a clear and conspicuous manner, to prohibit such uses; and

(b) product and service mail communications from automotive-related manufacturers, dealers and businesses will not be directed at individuals who exercise their option under subparagraph (a) of this paragraph.

(12) For use by an organ procurement organization designated pursuant to 42 U.S.C. s.1320b-8 to serve in the State of New Jersey, or any donor registry established by any such organization, exclusively for the purposes of determining, verifying, and recording organ and tissue donor designation and identity. For these purposes, an organ procurement organization shall have electronic access at all times, without exception, to real time organ donor designation and identification information. An organ procurement organization may also have information for research activities, pursuant to paragraph (5) of subsection c. of this section.

d. As provided by the federal "Drivers' Privacy Protection Act of 1994," Pub.L.103-322, a person authorized to receive personal information under paragraphs (1) through (10) of subsection c. of this section may resell or redisclose the personal information only for a use permitted by paragraphs (1) through (10) of subsection c. of this section subject to regulation by the commission. A person authorized to receive personal information under paragraph (11) of subsection c. of this section may resell or redisclose the personal information pursuant to paragraph (11) of subsection c. of this section subject to regulation by the commission. An organization authorized to receive personal information under paragraph (12) of subsection c. of this section may redisclose the personal information only for the purposes set forth in that paragraph.

e. As provided by the federal "Drivers' Privacy Protection Act of 1994," Pub.L.103-322, a person authorized to receive personal information under this section who resells or rediscloses personal information covered by the provisions of this act shall keep for a period of five years records identifying each person or entity that receives information and the permitted purpose for which the information will be used and shall make such records available to the commission upon request. Any person who receives, from any source, personal information from a motor vehicle record shall release or disclose that information only in accordance with this act.

f. The release of personal information under this section shall not include an individual's social security number except in accordance with applicable State or federal law.

3. Section 4 of P.L.1969, c.161 (C.26:6-60) is amended to read as follows:

C.26:6-60 Gift by will or other document.

4. (a) A gift of all or part of the body under section 2(a) may be made by will. The gift becomes effective upon the death of the testator without waiting for probate. If the will is not probated, or if it is declared invalid for testamentary purposes, the gift, to the extent that it has been acted upon in good faith, is nevertheless valid and effective.

(b) A gift of all or part of the body under section 2(a) may also be made by document other than a will. The gift becomes effective upon the death of the donor. The document, which may be a card designed to be carried on the person, must be signed by the donor. If the donor cannot sign, the document may be signed for him at his direction and in his presence in the presence of two witnesses who must sign the document in his presence. Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

(c) The gift may be made to a specified donee or without specifying a donee. If the latter, the gift may be accepted by the attending physician as donee upon or following death. If the gift is made to a specified donee who is not available at the time and place of death, the attending physician upon or following death, in the absence of any expressed indication that the donor desired otherwise, may accept the gift as donee. The physician who becomes a donee under this subsection shall not participate in the procedures for removing or transplanting a part.

(d) Notwithstanding section 7(b), the donor may designate in his will, card, or other document of gift the surgeon or physician to carry out the appropriate procedures. In the absence of a designation or if the designee is not available, the donee or other person authorized to accept the gift may employ or authorize any surgeon or physician for the purpose or, in the case of a gift of eyes, he may employ or authorize a practitioner of mortuary science licensed by the State Board of Mortuary Science of New Jersey, an eye

bank technician or a medical student who has successfully completed a course in eye enucleation approved by the State Board of Medical Examiners to enucleate eyes for the gift after certification of death by a physician. A practitioner of mortuary science, an eye bank technician or a medical student acting in accordance with the provisions of this subsection shall not have any liability, civil or criminal, for the eye enucleation.

(e) Any gift by a person designated in section 2(b) shall be made by a document signed by him or made by his telegraphic, recorded telephonic, or other recorded message.

(f) Notwithstanding any provision of law to the contrary, the intent of a decedent to give all or any part of his body as a gift pursuant to section 2(a) of P.L.1969, c.161 (C.26:6-58), as evidenced by the possession of a donor card, donor designation on a driver's license, advance directive pursuant to P.L.1991, c.201 (C.26:2H-53 et al.), other document of gift, or by registration with a Statewide organ and tissue donor registry, shall not be revoked by any person designated in section 2(b) of P.L.1969, c.161 (C.26:6-58), nor shall the consent of any such person at the time of the donor's death or immediately thereafter be necessary to render the gift valid and effective.

4. This act shall take effect on the first day of the fourth month following enactment.

Approved May 4, 2007.