

Senate Bill No. 1395

CHAPTER 217

An act to add Chapter 3.56 (commencing with Section 7152) to Part 1 of Division 7 of the Health and Safety Code, and to amend Section 12811 of the Vehicle Code, relating to organ donation.

[Approved by Governor September 2, 2010. Filed with
Secretary of State September 2, 2010.]

LEGISLATIVE COUNSEL'S DIGEST

SB 1395, Alquist. Organ donation.

Existing law authorizes the creation of a not-for-profit entity to be designated as the California Organ and Tissue Donor Registrar and authorizes the establishment and maintenance of the Donate Life California Organ and Tissue Donor Registry for persons who have identified themselves as organ and tissue donors upon their death.

This bill would authorize the creation of a not-for-profit entity to be designated as the Altruistic Living Donor Registrar and authorizes the establishment and maintenance of the Altruistic Living Donor Registry for persons who would like to identify themselves as kidney donors during their lifetime. This bill would permit the registrar to include on the registry persons who identify themselves as donors of organs and tissue other than kidneys if a specified finding is made by the federal Centers for Medicare and Medicaid (CMS) and the United Network for Organ Sharing.

This bill would require the information contained in the registry be made available to federally designated organ procurement organizations (OPOs) and transplant centers in California to expedite matches between identified organ donors and potential recipients. This bill would permit the registrar to receive voluntary contributions to support the registry and its activities.

Under existing law, the Department of Motor Vehicles is required to include on an application for a new or renewal driver's license or identification card a space for the applicant to give his or her consent to be an organ or tissue donor upon death and a specified statement regarding organ donation. Existing law also allows an applicant for a new or renewal license to designate a voluntary donation of \$2 for the purpose of promoting and supporting organ and tissue donation.

This bill would, instead, on and after July 1, 2011, require the department to include on an application for an original or renewal driver's license or identification card specified language asking the applicant if he or she wants to enroll with the Donate Life California Organ and Tissue Donor Registry and giving the applicant information about the registry, including disenrollment information. The bill would also require the department to ask the applicant verbally if he or she wishes to enroll in the registry. The

bill would require the department to transmit to the Donate Life California Organ and Tissue Donor Registry and the appropriate fiscal committees of the Legislature an annual report, and to make available quarterly updates, detailing funds collected through voluntary contributions from applicants as well as a summary of specified nonidentifiable applicant information.

The people of the State of California do enact as follows:

SECTION 1. Chapter 3.56 (commencing with Section 7152) is added to Part 1 of Division 7 of the Health and Safety Code, to read:

CHAPTER 3.56. ALTRUISTIC LIVING DONOR REGISTRY ACT

7152. This chapter shall be known, and may be cited, as the Altruistic Living Donor Registry Act of 2010.

7152.1. (a) The Legislature finds and declares all of the following:

(1) More than 20,000 Californians are currently waiting for a lifesaving organ transplant, and over 17,000 of those individuals are waiting for a kidney transplant. Based on the current trend in organ donations, one in three of those waiting for a transplant will die. In 2009, 5,874 Americans died while waiting for a transplant.

(2) On a national level, the number of organ donors increased by 3 percent from the years 2008 to 2009, while the number of organ donors in California decreased by 2 percent during this same time period. In 2009, there were only 798 cadaveric donors and 734 living donors in California.

(3) A decrease in organ donors results in longer stays on the national organ transplant waiting list and, consequently, more deaths among those patients who are waiting.

(4) The national organ transplant waiting list, which is maintained by the United Network for Organ Sharing, is growing at the rate of approximately 40,000 persons per year. A name is added to this national database every 13 minutes.

(5) Since 2005, more than six million Californians have registered to donate their organs and tissue upon death.

(6) However, no registry exists in California for those individuals who wish to be an altruistic living organ donor.

(b) The use of anatomical gifts, and the donation of organs for the purpose of transplantation, are of great value to the citizens of California and may save or prolong the life, or improve the health of, extremely ill and dying individuals.

(c) It is the intent of the Legislature to increase the number of individuals who identify themselves as potential organ donors. It is further the intent of the Legislature to establish a statewide Altruistic Living Donor Registry to expedite the match between organ donors and recipients and to encourage charitable contributions to support the registry.

7152.2. (a) The California organ procurement organizations designated pursuant to Section 273 and following of Title 42 of the United States Code, are hereby authorized to establish a not-for-profit entity that shall be designated the Altruistic Living Donor Registrar, which shall establish and maintain the Altruistic Living Donor Registry. The registry shall contain information regarding persons who have identified themselves as altruistic living kidney donors. The donor registry shall be designed to promote and assist live kidney donations, including donor chains, paired exchanges, and nondirected donations. The registrar shall be responsible for developing methods to increase the number of donors who enroll in the registry.

(b) The registrar shall make available to the federally designated organ procurement organizations (OPOs) and transplant centers in California information contained in the registry regarding potential altruistic living donors. This information shall be used to expedite a match between identified organ donors and potential recipients.

(c) The registrar may receive voluntary contributions to support the registry and its activities.

(d) The registrar shall collect and make all of the following information relating to altruistic kidney donations available to the public:

- (1) The number of donors on the registry.
- (2) The changes in the number of donors on the registry.
- (3) The general characteristics of donors.

(e) The registrar may also authorize the registry to include persons who identify themselves as altruistic living donors of organs and tissue other than kidneys to be added to the registry, upon a finding by the Federal Centers for Medicare and Medicaid Services and the United Network for Organ Sharing that the donation is generally regarded as safe and without a significant risk of complications, and would not adversely affect the health of the donor. Upon a finding pursuant to this subdivision, the registrar shall notify the appropriate policy committees of the Legislature.

SEC. 2. Section 12811 of the Vehicle Code is amended to read:

12811. (a) (1) (A) When the department determines that the applicant is lawfully entitled to a license, it shall issue to the person a driver's license as applied for. The license shall state the class of license for which the licensee has qualified and shall contain the distinguishing number assigned to the applicant, the date of expiration, the true full name, age, and mailing address of the licensee, a brief description and engraved picture or photograph of the licensee for the purpose of identification, and space for the signature of the licensee.

(B) Each license shall also contain a space for the endorsement of a record of each suspension or revocation thereof.

(C) The department shall use whatever process or processes, in the issuance of engraved or colored licenses, that prohibit, as near as possible, the ability to alter or reproduce the license, or prohibit the ability to superimpose a picture or photograph on the license without ready detection.

(2) In addition to the requirements of paragraph (1), a license issued to a person under 18 years of age shall display the words “provisional until age 18.”

(b) (1) On and after July 1, 2011, an application for an original or renewal driver’s license or identification card shall contain a space for the applicant to enroll in the Donate Life California Organ and Tissue Donor Registry. The application shall include check boxes for an applicant to mark either (A) Yes, add my name to the donor registry or (B) I do not wish to register at this time.

(2) The department shall inquire verbally of an applicant applying in person for an original or renewal driver’s license or identification card at a department office as to whether the applicant wishes to enroll in the Donate Life California Organ and Tissue Donor Registry. Failure or refusal to answer this question or check a box on the application form shall not be a basis for the department to deny an applicant a driver’s license or identification card.

(3) The following language shall be included with the question required by paragraph (1):

“Marking ‘Yes’ adds your name to the Donate Life California Organ and Tissue Donor Registry and a pink ‘donor’ dot will appear on your license. If you wish to remove your name from the registry you must contact Donate Life California (see back); DMV can remove the pink dot from your licenses but cannot remove you from the registry.”

(4) The back of the application shall contain the following statement:

“If, on the front of this form, you marked ‘Yes’ to register as an organ and tissue donor you are legally authorizing the recovery of organs and tissues in the event of your death. Registering as a donor will not affect your medical treatment in any way. As outlined in the California Anatomical Gift Act, your authorization is legally binding and, unless the donor is under 18 years of age, your decision does not require the consent of any other person. For registered donors under 18 years of age, the legal guardian shall make the final donation decision. You may limit your donation to specific organs or tissues, place usage restrictions, for example transplantation or research, obtain more information about donation, or remove your name from the registry on the Internet Web site of Donate Life California: www.donateLIFECalifornia.org.”

(5) Notwithstanding any other provision of law, a person under 18 years of age may register as a donor. However, the legal guardian of that person shall make the final decision regarding the donation.

(6) The department shall collect donor designation information on all applications for an original or renewal driver’s license or identification card.

(7) The department shall print the word “DONOR” or another appropriate designation on the face of a driver’s license or identification card to a person

who has indicated on the application his or her intent to enroll in the organ donation program pursuant to this section.

(8) On a weekly basis, the department shall electronically transmit to Donate Life California, a nonprofit organization established and designated as the California Organ and Tissue Donor Registrar pursuant to Section 7150.90 of the Health and Safety Code, all of the following information from every application that indicates the applicant's decision to enroll in the organ donation program:

- (A) His or her true full name.
- (B) His or her residence or mailing address.
- (C) His or her year of birth.
- (D) His or her California driver's license number or identification card number.

(9) (A) A person who applies for an original or renewal driver's license or identification card may designate a voluntary contribution of two dollars (\$2) for the purpose of promoting and supporting organ and tissue donation. This contribution shall be collected by the department, and treated as a voluntary contribution to Donate Life California and not as a fee for the issuance of a driver's license or identification card.

(B) The department may use the donations collected pursuant to this paragraph to cover its actual administrative costs incurred pursuant to paragraphs (6) to (8), inclusive. The department shall deposit all revenue derived pursuant to this paragraph and remaining after the department's deduction for administrative costs in the Donate Life California Trust Subaccount, that is hereby created in the Motor Vehicle Account in the State Transportation Fund. Notwithstanding Section 13340 of the Government Code, all revenue in this subaccount is continuously appropriated, without regard to fiscal years, to the Controller for allocation to Donate Life California and shall be expended for the purpose of increasing participation in organ donation programs.

(C) The department shall transmit to the Donate Life California Organ and Tissue Donor Registry and the appropriate policy and fiscal committees of the Legislature an annual report, and shall make available quarterly updates, detailing funds collected through voluntary contributions as well as a summary of applicants, including all of the following nonidentifiable information:

- (i) Date of application.
- (ii) Method of application (field office, online, or mail).
- (iii) Donor registration status.
- (iv) Zip code.
- (v) Gender.
- (vi) Year of birth.

(D) (i) The annual report to be submitted to the appropriate policy and fiscal committees of the Legislature pursuant to subparagraph (C) shall be submitted in compliance with Section 9795 of the Government Code.

(ii) Pursuant to Section 10231.5 of the Government Code, the requirement for submitting the annual report to the appropriate policy and fiscal

committees of the Legislature imposed under subparagraph (C) is inoperative four years after the date the first annual report is due.

(10) The enrollment form shall be posted on the Internet Web sites for the department and the California Health and Human Services Agency.

(11) The enrollment shall constitute a legal document pursuant to the Uniform Anatomical Gift Act (Chapter 3.5 (commencing with Section 7150) of Part 1 of Division 7 of the Health and Safety Code) and shall remain binding after the donor's death despite any express desires of next of kin opposed to the donation. Except as provided in paragraph (5) of subdivision (b), the donation does not require the consent of any other person.

(12) Donate Life California shall ensure that all additions and deletions to the California Organ and Tissue Donor Registry, established pursuant to Section 7150.90 of the Health and Safety Code, shall occur within 30 days of receipt.

(13) Information obtained by Donate Life California for the purposes of this subdivision shall be used for these purposes only and shall not be disseminated further by Donate Life California.

(c) A public entity or employee shall not be liable for loss, detriment, or injury resulting directly or indirectly from false or inaccurate information contained in the form provided pursuant to subdivision (b).

(d) A contract shall not be awarded to a nongovernmental entity for the processing of driver's licenses, unless the contract conforms to all applicable state contracting laws and all applicable procedures set forth in the State Contracting Manual.

(e) This section shall become operative on July 1, 2006.