



94TH GENERAL ASSEMBLY

State of Illinois

2005 and 2006

HB1077

Introduced 02/08/05, by Rep. Kathleen A. Ryg - Michael P. McAuliffe - Naomi D. Jakobsson - Lisa M. Dugan - Daniel V. Beiser, et al.

SYNOPSIS AS INTRODUCED:

625 ILCS 5/6-110	from Ch. 95 1/2, par. 6-110
625 ILCS 5/6-117	from Ch. 95 1/2, par. 6-117
755 ILCS 50/5-20	was 755 ILCS 50/5
755 ILCS 50/5-40	was 755 ILCS 50/7
755 ILCS 50/5-45	was 755 ILCS 50/8

Amends the Illinois Vehicle Code and the Illinois Anatomical Gift Act. Provides that the Secretary of State may establish a First Person Consent organ and tissue donor registry. Provides that the Secretary may offer, to each applicant for reissuance or renewal of a driver's license or identification card who is 18 or older, the opportunity to have his or her name included on the registry. Provides that the Secretary must advise the person that he or she is under no compulsion to have his or her name included. Establishes additional procedures for creating the registry. Provides that the Secretary must continue, until the registry has been established, to provide, on the reverse side of each driver's license issued, a format that the licensee may use to execute an anatomical gift. Provides that a person may make an anatomical gift by consenting to having his or her name included in the registry. Provides that in the absence of gross negligence, willful misconduct, the Secretary of State and his or her employees from criminal or civil liability in connection with a person's consent to be listed in the registry.

LRB094 07671 DRH 37845 b

1 AN ACT concerning organ and tissue donation.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

4 Section 5. The Illinois Vehicle Code is amended by changing
5 Sections 6-110 and 6-117 as follows:

6 (625 ILCS 5/6-110) (from Ch. 95 1/2, par. 6-110)

7 Sec. 6-110. Licenses issued to drivers.

8 (a) The Secretary of State shall issue to every qualifying
9 applicant a driver's license as applied for, which license
10 shall bear a distinguishing number assigned to the licensee,
11 the legal name, social security number, zip code, date of
12 birth, residence address, and a brief description of the
13 licensee, and a space where the licensee may write his usual
14 signature.

15 If the licensee is less than 17 years of age, the license
16 shall, as a matter of law, be invalid for the operation of any
17 motor vehicle during any time the licensee is prohibited from
18 being on any street or highway under the provisions of the
19 Child Curfew Act.

20 Licenses issued shall also indicate the classification and
21 the restrictions under Section 6-104 of this Code.

22 In lieu of the social security number, the Secretary may in
23 his discretion substitute a federal tax number or other
24 distinctive number.

25 A driver's license issued may, in the discretion of the
26 Secretary, include a suitable photograph of a type prescribed
27 by the Secretary.

28 (b) Until the Secretary of State establishes a First Person
29 Consent organ and tissue donor registry under Section 6-117 of
30 this Code, the ~~The~~ Secretary of State shall provide a format on
31 the reverse of each driver's license issued which the licensee
32 may use to execute a document of gift conforming to the

1 provisions of the Illinois Anatomical Gift Act. The format
2 shall allow the licensee to indicate the gift intended, whether
3 specific organs, any organ, or the entire body, and shall
4 accommodate the signatures of the donor and 2 witnesses. The
5 Secretary shall also inform each applicant or licensee of this
6 format, describe the procedure for its execution, and may offer
7 the necessary witnesses; provided that in so doing, the
8 Secretary shall advise the applicant or licensee that he or she
9 is under no compulsion to execute a document of gift. A
10 brochure explaining this method of executing an anatomical gift
11 document shall be given to each applicant or licensee. The
12 brochure shall advise the applicant or licensee that he or she
13 is under no compulsion to execute a document of gift, and that
14 he or she may wish to consult with family, friends or clergy
15 before doing so. The Secretary of State may undertake
16 additional efforts, including education and awareness
17 activities, to promote organ and tissue donation.

18 (c) The Secretary of State shall designate on each driver's
19 license issued a space where the licensee may place a sticker
20 or decal of the uniform size as the Secretary may specify,
21 which sticker or decal may indicate in appropriate language
22 that the owner of the license carries an Emergency Medical
23 Information Card.

24 The sticker may be provided by any person, hospital,
25 school, medical group, or association interested in assisting
26 in implementing the Emergency Medical Information Card, but
27 shall meet the specifications as the Secretary may by rule or
28 regulation require.

29 (d) The Secretary of State shall designate on each driver's
30 license issued a space where the licensee may indicate his
31 blood type and RH factor.

32 (e) The Secretary of State shall provide that each original
33 or renewal driver's license issued to a licensee under 21 years
34 of age shall be of a distinct nature from those driver's
35 licenses issued to individuals 21 years of age and older. The
36 color designated for driver's licenses for licensees under 21

1 years of age shall be at the discretion of the Secretary of
2 State.

3 (e-1) The Secretary shall provide that each driver's
4 license issued to a person under the age of 21 displays the
5 date upon which the person becomes 18 years of age and the date
6 upon which the person becomes 21 years of age.

7 (f) The Secretary of State shall inform all Illinois
8 licensed commercial motor vehicle operators of the
9 requirements of the Uniform Commercial Driver License Act,
10 Article V of this Chapter, and shall make provisions to insure
11 that all drivers, seeking to obtain a commercial driver's
12 license, be afforded an opportunity prior to April 1, 1992, to
13 obtain the license. The Secretary is authorized to extend
14 driver's license expiration dates, and assign specific times,
15 dates and locations where these commercial driver's tests shall
16 be conducted. Any applicant, regardless of the current
17 expiration date of the applicant's driver's license, may be
18 subject to any assignment by the Secretary. Failure to comply
19 with the Secretary's assignment may result in the applicant's
20 forfeiture of an opportunity to receive a commercial driver's
21 license prior to April 1, 1992.

22 (g) The Secretary of State shall designate on a driver's
23 license issued, a space where the licensee may indicate that he
24 or she has drafted a living will in accordance with the
25 Illinois Living Will Act or a durable power of attorney for
26 health care in accordance with the Illinois Power of Attorney
27 Act.

28 (g-1) The Secretary of State, in his or her discretion, may
29 designate on each driver's license issued a space where the
30 licensee may place a sticker or decal, issued by the Secretary
31 of State, of uniform size as the Secretary may specify, that
32 shall indicate in appropriate language that the owner of the
33 license has renewed his or her driver's license.

34 (h) A person who acts in good faith in accordance with the
35 terms of this Section is not liable for damages in any civil
36 action or subject to prosecution in any criminal proceeding for

1 his or her act.

2 (Source: P.A. 92-689, eff. 1-1-03; 93-794, eff. 7-22-04;
3 93-895, eff. 1-1-05; revised 10-22-04.)

4 (625 ILCS 5/6-117) (from Ch. 95 1/2, par. 6-117)

5 Sec. 6-117. Records to be kept by the Secretary of State.

6 (a) The Secretary of State shall file every application for
7 a license or permit accepted under this Chapter, and shall
8 maintain suitable indexes thereof. The records of the Secretary
9 of State shall indicate the action taken with respect to such
10 applications.

11 (b) The Secretary of State shall maintain appropriate
12 records of all licenses and permits refused, cancelled, revoked
13 or suspended and of the revocation and suspension of driving
14 privileges of persons not licensed under this Chapter, and such
15 records shall note the reasons for such action.

16 (c) The Secretary of State shall maintain appropriate
17 records of convictions reported under this Chapter. Records of
18 conviction may be maintained in a computer processible medium.

19 (d) The Secretary of State may also maintain appropriate
20 records of any accident reports received.

21 (e) The Secretary of State shall also maintain appropriate
22 records of any disposition of supervision or records relative
23 to a driver's referral to a driver remedial or rehabilitative
24 program, as required by the Secretary of State or the courts.
25 Such records shall only be available for use by the Secretary,
26 law enforcement agencies, the courts, and the affected driver
27 or, upon proper verification, such affected driver's attorney.

28 (f) The Secretary of State shall also maintain or contract
29 to maintain appropriate records of all photographs and
30 signatures obtained in the process of issuing any driver's
31 license, permit, or identification card. The record shall be
32 confidential and shall not be disclosed except to those
33 entities listed under Section 6-110.1 of this Code.

34 (g) The Secretary of State may establish a First Person
35 Consent organ and tissue donor registry in compliance with

1 subsection (b-1) of Section 5-20 of the Illinois Anatomical
2 Gift Act, as follows:

3 (1) The Secretary shall offer, to each applicant
4 for issuance or renewal of a driver's license or
5 identification card who is 18 years of age or older, the
6 opportunity to have his or her name included in the First
7 Person Consent organ and tissue donor registry. The
8 Secretary must advise the applicant or licensee that he or
9 she is under no compulsion to have his or her name included
10 in the registry. An individual who agrees to having his or
11 her name included in the First Person Consent organ and
12 tissue donor registry has given full legal consent to the
13 donation of any of his or her organs or tissue upon his or
14 her death. A brochure explaining this method of executing
15 an anatomical gift must be given to each applicant for
16 issuance or renewal of a driver's license or identification
17 card. The brochure must advise the applicant or licensee
18 (i) that he or she is under no compulsion to have his or
19 her name included in this registry and (ii) that he or she
20 may wish to consult with family, friends, or clergy before
21 doing so.

22 (2) The Secretary of State may establish
23 additional methods by which an individual may have his or
24 her name included in the First Person Consent organ and
25 tissue donor registry.

26 (3) When an individual has agreed to have his or
27 her name included in the First Person Consent organ and
28 tissue donor registry, the Secretary of State shall note
29 that agreement in the First Person consent organ and tissue
30 donor registry. Representatives of federally designated
31 organ procurement agencies and tissue banks may inquire of
32 the Secretary of State whether a potential organ donor's
33 name is included in the First Person Consent organ and
34 tissue donor registry, and the Secretary of State may
35 provide that information to the representative.

36 (4) An individual may withdraw his or her consent

1 to be listed in the First Person Consent organ and tissue
2 donor registry maintained by the Secretary of State by
3 notifying the Secretary of State in writing, or by any
4 other means approved by the Secretary, of the individual's
5 decision to have his or her name removed from the registry.

6 (5) The Secretary of State may undertake
7 additional efforts, including education and awareness
8 activities, to promote organ and tissue donation.

9 (6) In the absence of gross negligence or willful
10 misconduct, the Secretary of State and his or her employees
11 are immune from any civil or criminal liability in
12 connection with an individual's consent to be listed in the
13 organ and tissue donor registry.

14 (Source: P.A. 92-458, eff. 8-22-01.)

15 Section 10. The Illinois Anatomical Gift Act is amended by
16 changing Sections 5-20, 5-40, and 5-45 as follows:

17 (755 ILCS 50/5-20) (was 755 ILCS 50/5)

18 Sec. 5-20. Manner of Executing Anatomical Gifts.

19 (a) A gift of all or part of the body under Section 5-5 (a)
20 may be made by will. The gift becomes effective upon the death
21 of the testator without waiting for probate. If the will is not
22 probated, or if it is declared invalid for testamentary
23 purposes, the gift, to the extent that it has been acted upon
24 in good faith, is nevertheless valid and effective.

25 (b) A gift of all or part of the body under Section 5-5 (a)
26 may also be made by a written, signed document other than a
27 will. The gift becomes effective upon the death of the donor.
28 The document, which may be a card or a valid driver's license
29 designed to be carried on the person, is effective without
30 regard to the presence or signature of witnesses ~~must be signed~~
31 ~~by the donor in the presence of 2 witnesses who must sign the~~
32 ~~document in his presence and who thereby certify that he was of~~
33 ~~sound mind and memory and free from any undue influence and~~
34 ~~knows the objects of his bounty and affection.~~ Such a gift may

1 also be made by properly executing the form provided by the
2 Secretary of State on the reverse side of the donor's driver's
3 license pursuant to subsection (b) of Section 6-110 of The
4 Illinois Vehicle Code. Delivery of the document of gift during
5 the donor's lifetime is not necessary to make the gift valid.

6 (b-1) A gift under Section 5-5 (a) may also be made by an
7 individual consenting to have his or her name included in the
8 First Person Consent organ and tissue donor registry maintained
9 by the Secretary of State under Section 6-117 of the Illinois
10 Vehicle Code. An individual's consent to have his or her name
11 included in the First Person Consent organ and tissue donor
12 registry constitutes full legal authority for the donation of
13 any of his or her organs or tissue. Consenting to be included
14 in the First Person Consent organ and tissue donor registry is
15 effective without regard to the presence or signature of
16 witnesses.

17 (c) The gift may be made to a specified donee or without
18 specifying a donee. If the latter, the gift may be accepted by
19 the attending physician as donee upon or following death. If
20 the gift is made to a specified donee who is not available at
21 the time and place of death, then if made for the purpose of
22 transplantation, it shall be effectuated in accordance with
23 Section 5-25, and if made for any other purpose the attending
24 physician upon or following death, in the absence of any
25 expressed indication that the donor desired otherwise, may
26 accept the gift as donee.

27 (d) Notwithstanding Section 5-45 (b), the donor may
28 designate in his will, card, or other document of gift the
29 surgeon or physician to carry out the appropriate procedures.
30 In the absence of a designation or if the designee is not
31 available, the donee or other person authorized to accept the
32 gift may employ or authorize any surgeon or physician for the
33 purpose.

34 (e) Any gift by a person designated in Section 5-5 (b)
35 shall be made by a document signed by him or made by his
36 telegraphic, recorded telephonic, or other recorded message.

1 (Source: P.A. 93-794, eff. 7-22-04.)

2 (755 ILCS 50/5-40) (was 755 ILCS 50/7)

3 Sec. 5-40. Amendment or Revocation of the Gift.

4 (a) If the will, card, or other document or executed copy
5 thereof, has been delivered to a specified donee, the donor may
6 amend or revoke the gift by:

7 (1) the execution and delivery to the donee of a signed
8 statement witnessed and certified as provided in Section
9 5-20(b); or

10 (2) a signed card or document found on his person, or
11 in his effects, executed at a date subsequent to the date
12 the original gift was made and witnessed and certified as
13 provided in Section 5-20(b).

14 (b) Any document of gift which has not been delivered to
15 the donee may be revoked by the donor in the manner set out in
16 subsection (a).

17 (c) Any gift made by a will may also be amended or revoked
18 in the manner provided for amendment or revocation of wills or
19 as provided in subsection (a).

20 (d) An individual may withdraw his or her consent to be
21 listed in the First Person Consent organ and tissue donor
22 registry maintained by the Secretary of State by notifying the
23 Secretary of State in writing, or by any other means approved
24 by the Secretary, of the individual's decision to have his or
25 her name removed from the registry.

26 (Source: P.A. 93-794, eff. 7-22-04.)

27 (755 ILCS 50/5-45) (was 755 ILCS 50/8)

28 Sec. 5-45. Rights and Duties at Death.

29 (a) The donee may accept or reject the gift. If the donee
30 accepts a gift of the entire body, he may, subject to the terms
31 of the gift, authorize embalming and the use of the body in
32 funeral services, unless a person named in subsection (b) of
33 Section 5-5 has requested, prior to the final disposition by
34 the donee, that the remains of said body be returned to his or

1 her custody for the purpose of final disposition. Such request
2 shall be honored by the donee if the terms of the gift are
3 silent on how final disposition is to take place. If the gift
4 is of a part of the body, the donee or technician designated by
5 him upon the death of the donor and prior to embalming, shall
6 cause the part to be removed without unnecessary mutilation and
7 without undue delay in the release of the body for the purposes
8 of final disposition. After removal of the part, custody of the
9 remainder of the body vests in the surviving spouse, next of
10 kin, or other persons under obligation to dispose of the body,
11 in the order or priority listed in subsection (b) of Section
12 5-5 of this Act.

13 (b) The time of death shall be determined by a physician
14 who attends the donor at his death, or, if none, the physician
15 who certifies the death. The physician shall not participate in
16 the procedures for removing or transplanting a part.

17 (c) A person who acts in good faith in accord with the
18 terms of this Act, the Illinois Vehicle Code, and the AIDS
19 Confidentiality Act, or the anatomical gift laws of another
20 state or a foreign country, is not liable for damages in any
21 civil action or subject to prosecution in any criminal
22 proceeding for his act. Any person that participates in good
23 faith and according to the usual and customary standards of
24 medical practice in the removal or transplantation of any part
25 of a decedent's body pursuant to an anatomical gift made by the
26 decedent under Section 5-20 of this Act or pursuant to an
27 anatomical gift made by an individual as authorized by
28 subsection (b) of Section 5-5 of this Act shall have immunity
29 from liability, civil, criminal, or otherwise, that might
30 result by reason of such actions. For the purpose of any
31 proceedings, civil or criminal, the validity of an anatomical
32 gift executed pursuant to Section 5-20 of this Act shall be
33 presumed and the good faith of any person participating in the
34 removal or transplantation of any part of a decedent's body
35 pursuant to an anatomical gift made by the decedent or by
36 another individual authorized by the Act shall be presumed.

1 (d) This Act is subject to the provisions of "An Act to
2 revise the law in relation to coroners", approved February 6,
3 1874, as now or hereafter amended, to the laws of this State
4 prescribing powers and duties with respect to autopsies, and to
5 the statutes, rules, and regulations of this State with respect
6 to the transportation and disposition of deceased human bodies.

7 (e) If the donee is provided information, or determines
8 through independent examination, that there is evidence that
9 the gift was exposed to the human immunodeficiency virus (HIV)
10 or any other identified causative agent of acquired
11 immunodeficiency syndrome (AIDS), the donee may reject the gift
12 and shall treat the information and examination results as a
13 confidential medical record; the donee may disclose only the
14 results confirming HIV exposure, and only to the physician of
15 the deceased donor. The donor's physician shall determine
16 whether the person who executed the gift should be notified of
17 the confirmed positive test result.

18 (Source: P.A. 93-794, eff. 7-22-04.)