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## HOUSE BILL NO. 1713

Offered January 9, 2013

Prefiled January 8, 2013

A *BILL to amend and reenact §§ 32.1-292.2 and 46.2-342 of the Code of Virginia, relating to participation in Virginia's organ donor program by recipients of driver's licenses and special identification cards.*

Patron—Plum

Referred to Committee on Transportation

**Be it enacted by the General Assembly of Virginia:**

1. That §§ 32.1-292.2 and 46.2-342 of the Code of Virginia are amended and reenacted as follows:  
 § 32.1-292.2. The Virginia Donor Registry.

A. In order to save lives by reducing the shortage of organs and tissues for transplantation and to implement cost savings for patients and various state agencies by eliminating needless bureaucracy, there is hereby established the Virginia Donor Registry (hereinafter referred to as the Registry), which shall be created, compiled, operated, maintained, and modified as necessary by the Virginia Transplant Council in accordance with the regulations of the Board of Health and the administration of the Department of Health. At its sole discretion, the Virginia Transplant Council may contract with a third party or parties to create, compile, operate, maintain or modify the Registry. Pertinent information on all Virginians who have indicated a willingness to donate organs and tissues in accordance with the Revised Uniform Anatomical Gift Act (§ 32.1-291.1 et seq.) shall be compiled, maintained, and modified as necessary in the Registry by the Virginia Transplant Council.

B. The Registry and all information therein shall be confidential and subject to access only by personnel of the Department of Health and designated organ procurement organizations, eye banks, and tissue banks, operating in or serving Virginia that are members of the Virginia Transplant Council, for the purpose of identifying and determining the suitability of a potential donor according to the provisions of subdivision B 4 of § 32.1-127 or subsection H of § 46.2-342.

C. The purpose of the Registry shall include, but not be limited to:

1. Providing a means of recovering an anatomical gift for transplantation, therapy, education or research as authorized by the Revised Uniform Anatomical Gift Act (§ 32.1-291.1 et seq.) and subsection H of § 46.2-342; and

2. Collecting data to develop and evaluate the effectiveness of educational initiatives promoting organ, eye, and tissue donation that are conducted or coordinated by the Virginia Transplant Council or its members.

D. The Board, in consultation with the Virginia Transplant Council, shall promulgate regulations necessary to create, compile, operate, maintain, modify as necessary, and administer the Virginia Donor Registry. The regulations shall include, but not be limited to:

1. Recording the data subject's full name, address, sex, birth date, age, driver's license number or unique identifying number, and other pertinent identifying personal information;

2. Authorizing the Virginia Transplant Council to analyze Registry data under research protocols that are designed to identify and assess the effectiveness of mechanisms to promote and increase organ, eye, and tissue donation within the Commonwealth; and

3. Providing that any Virginian whose name has been placed in the registry may have his name deleted by filing an appropriate form with the Virginia Transplant Council or in accordance with the Revised Uniform Anatomical Gift Act (§ 32.1-291.1 et seq.) or subsection I of § 46.2-342.

**§ 46.2-342. What license to contain; organ donor information; Uniform Donor Document.**

A. Every license issued under this chapter shall bear:

1. For licenses issued or renewed on or after July 1, 2003, a license number which shall be assigned by the Department to the licensee and shall not be the same as the licensee's social security number;

2. A photograph of the licensee;

3. The licensee's full name, year, month, and date of birth;

4. The licensee's address, subject to the provisions of subsection B of this section;

5. A brief description of the licensee for the purpose of identification;

6. A space for the signature of the licensee; and

7. Any other information deemed necessary by the Commissioner for the administration of this title.

No abbreviated names or nicknames shall be shown on any license.

B. At the option of the licensee, the address shown on the license may be either the post office box,

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59 business, or residence address of the licensee, provided such address is located in Virginia. However,  
60 regardless of which address is shown on the license, the licensee shall supply the Department with his  
61 residence address, which shall be an address in Virginia. This residence address shall be maintained in  
62 the Department's records. Whenever the licensee's address shown either on his license or in the  
63 Department's records changes, he shall notify the Department of such change as required by § 46.2-324.

64 C. The Department may contract with the United States Postal Service or an authorized agent to use  
65 the National Change of Address System for the purpose of obtaining current address information for a  
66 person whose name appears in customer records maintained by the Department. If the Department  
67 receives information from the National Change of Address System indicating that a person whose name  
68 appears in a Department record has submitted a permanent change of address to the Postal Service, the  
69 Department may then update its records with the mailing address obtained from the National Change of  
70 Address System.

71 D. The license shall be made of a material and in a form to be determined by the Commissioner.

72 E. Licenses issued to persons less than 21 years old shall be immediately and readily distinguishable  
73 from those issued to persons 21 years old or older. Distinguishing characteristics shall include unique  
74 design elements of the document and descriptors within the photograph area to identify persons who are  
75 at least 15 years old but less than 21 years old. These descriptors shall include the month, day, and year  
76 when the person will become 21 years old.

77 F. *Every applicant for a driver's license or special identification card shall be presumed to be*  
78 *willing to be a participant in Virginia's organ donor program.* The Department shall establish a method  
79 by which ~~an~~ every applicant for a driver's license or an identification card ~~may designate shall be~~  
80 ~~informed of this presumption and afforded an opportunity to indicate his willingness unwillingness~~  
81 ~~to make an anatomical gift for transplantation, therapy, research, and education as provided in Article 2~~  
82 ~~(§ 32.1-289.2 et seq.) of Chapter 8 of Title 32.1 and shall cooperate with the Virginia Transplant~~  
83 ~~Council to ensure that such method is designed to encourage organ, tissue, and eye donation with a~~  
84 ~~minimum of effort on the part of the donor and the Department. A person who declines to participate in~~  
85 ~~the organ donor program shall have this nonparticipation clearly and conspicuously indicated on his~~  
86 ~~driver's license or special identification card and made a part of his driver record.~~

87 G. If an applicant designates his willingness to be a donor pursuant to subsection F, the Department  
88 may make a notation of this designation on his license or card and shall make a notation of this  
89 designation in his driver record.

90 H. The donor designation authorized in subsection G shall be sufficient legal authority for the  
91 removal, following death, of the subject's organs or tissues without additional authority from the donor,  
92 or his family or estate. No family member, guardian, agent named pursuant to an advance directive or  
93 person responsible for the decedent's estate shall refuse to honor the donor designation or, in any way,  
94 seek to avoid honoring the donor designation.

95 I. The donor designation provided pursuant to subsection F may be rescinded by notifying the  
96 Department. In addition, the Department shall remove from the driver's license or identification card any  
97 donor designation made pursuant to subsection F, if, at the time the applicant renews or replaces the  
98 license or identification card, the applicant does not again designate his willingness to be a donor  
99 pursuant to subsection F.

100 J. A minor may make a donor designation pursuant to subsection F without the consent of a parent  
101 or legal guardian as authorized by the Revised Uniform Anatomical Gift Act (§ 32.1-291.1 et seq.).

102 K. G. The Department shall provide a method by which an applicant conducting a Department of  
103 Motor Vehicles transaction using electronic means may make a voluntary contribution to the Virginia  
104 Donor Registry and Public Awareness Fund (Fund) established pursuant to § 32.1-297.1. The  
105 Department shall inform the applicant of the existence of the Fund and also that contributing to the  
106 Fund is voluntary.

107 L. H. The Department shall collect all moneys contributed pursuant to subsection K G and transmit  
108 the moneys on a regular basis to the Virginia Transplant Council, which shall credit the contributions to  
109 the Fund.

110 M. I. When requested by the applicant, and upon presentation of a signed statement by a licensed  
111 physician confirming the applicant's condition, the Department shall indicate on the applicant's driver's  
112 license that the applicant is (i) an insulin-dependent diabetic, or (ii) hearing or speech impaired.

113 N. J. In the absence of gross negligence or willful misconduct, the Department and its employees  
114 shall be immune from any civil or criminal liability in connection with the making of or failure to make  
115 a notation of donor designation on any license or card or in any person's driver record.

116 O. K. Notwithstanding the foregoing provisions of this section, the Department shall continue to use  
117 the uniform donor document, as formerly set forth in subsection F, for organ donation designation until  
118 such time as a new method is fully implemented, which shall be no later than July 1, 1994. Any such  
119 uniform donor document shall, when properly executed, remain valid and shall continue to be subject to  
120 all conditions for execution, delivery, amendment, and revocation as set out in Article 2 (§ 32.1-289.2 et

121 seq.) of Chapter 8 of Title 32.1.

122 P. The Department shall, in coordination with the Virginia Transplant Council, prepare an organ  
123 donor information brochure describing the organ donor program and providing instructions for  
124 completion of the uniform donor document information describing the bone marrow donation program  
125 and instructions for registration in the National Bone Marrow Registry. The Department shall include a  
126 copy of such brochure with every driver's license renewal notice or application mailed to licensed  
127 drivers in Virginia.

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