

Requiring State Motor Vehicle Agencies to Share Organ Donor Information with Federally Designated Organ Procurement Organizations

Generally, applicants for new driver licenses and license renewals can designate whether they wish to donate all or any of their body organs or tissues, upon their deaths, for the purposes of transplantation, therapy, medical research, or education. This Act requires the state Motor Vehicle Commission (MVC) to share its organ donor information with federally designated private-sector Organ Procurement Organizations (OPOs) operating in the state, which are charged with the responsibility of effectively procuring and equitably distributing donated organs and tissues within the state.

This Act requires the chief administrator of the MVC, in consultation with the OPOs, to establish and provide an annual education program for agency employees and personnel. The program is to focus on the benefits associated with organ and tissue donations, the scope and operation of the state’s donor program, and how MVC employees and personnel can effectively inform the public about the donor program and best assist those wishing to participate in the donor program.

The legislation directs the MVC to electronically record and store all organ donor designations and identification information and provide real time electronic access to the organ donor designation information that it collects, in the course of issuing and renewing driver licenses, to the two OPOs designated by the federal government pursuant to 42 U.S.C. s.273 to serve the state. The OPOs will not be required to incur an aggregate cost in excess of \$50,000 for these purposes.

Submitted as:

New Jersey

[Chapter 80 of 2007](#)

Status: Enacted into law in 2007.

Suggested State Legislation

(Title, enacting clause, etc.)

1 Section 1. [*Short Title.*] This Act shall be cited as “An Act to Require the State Department
2 of Motor Vehicle Vehicles to Share Organ Donor Records with Federally Designated Organ
3 Procurement Organizations.”
4

5 Section 2. [*Designating Body Organs or Parts to be Donated for Medical Uses and*
6 *Research.*]

7 A. The [chief administrator of the motor vehicle commission] shall provide with every new
8 license, renewal license, identification card or renewal identification card the opportunity for each
9 person pursuant to the provisions of the “Uniform Anatomical Gift Act,” [insert citation], to
10 designate that the person shall donate all or any body organs or parts for the purposes of
11 transplantation, therapy, medical research or education upon their death.

12 B. The designation indicating that a person is a donor pursuant to subsection A of this
13 section shall be done in accordance with procedures prescribed by the [chief administrator]. The
14 designation shall be displayed in print in a conspicuous form and manner on the license or

15 identification card, and electronically, by substantially the following statement: “ORGAN
16 DONOR” and shall constitute sufficient legal authority to remove a body organ or part upon the
17 death of the licensee or identification cardholder. The designation shall be removed in accordance
18 with procedures prescribed by the [chief administrator].

19 C. The [chief administrator], in consultation with those organ procurement organizations
20 designated pursuant to 42 U.S.C. s.1320b-8 to serve in this state, shall establish and provide an
21 annual education program for [agency] employees and personnel. The program shall focus on the
22 benefits associated with organ and tissue donations, the scope and operation of this state’s donor
23 program, and how the [agency’s] employees and personnel can effectively inform the public about
24 the donor program and can best assist those wishing to participate in the donor program.

25 D. The [chief administrator] shall electronically record and store all organ donor
26 designations and identification information, and shall provide the organ procurement organizations
27 designated pursuant to 42 U.S.C. s.1320b-8 to serve in this state with real-time electronic access to
28 the organ donor designation information collected pursuant to subsection A of this section. An
29 organ procurement organization designated pursuant to 42 U.S.C. s.1320b-8 to serve in this state,
30 or any donor registry established by any such organization, shall have real time electronic access
31 to those organ donor designations and identification at all times, without exception, for the
32 purposes of verifying organ and tissue donation status and identity. For these purposes, the
33 federally designated organ procurement organization shall have electronic access to each recorded
34 donor’s name, address, date of birth, gender, color of eyes, height, and driver’s license number.
35 Upon request, the [chief administrator] shall provide a copy of the donor’s original driver license
36 application.

37 E. Those organ procurement organizations designated pursuant to 42 U.S.C. s.1320b-8 to
38 serve in this state may contract with a third party, in consultation with the [chief administrator], to
39 assess, develop, and implement any system set-up necessary to support the initial and ongoing
40 electronic access by those organizations to the donor designation and identification information
41 required to be made available in accordance with the provisions of this section; however, the organ
42 procurement organizations shall not be required to incur an aggregate cost in excess of [\$50,000]
43 for the purposes of this subsection.

44
45 Section 3. [*Confidentiality of Motor Vehicle Records.*]

46 A. Notwithstanding the provisions of [insert citation], except as provided in this Act, the
47 [Motor Vehicle Commission] and any officer, employee or contractor thereof shall not knowingly
48 disclose or otherwise make available to any person personal information about any individual
49 obtained by the [commission] in connection with a motor vehicle record.

50 B. A person requesting a motor vehicle record including personal information shall
51 produce proper identification and shall complete and submit a written request form provided by
52 the [chief administrator for the commission]. The written request form shall bear notice that the
53 making of false statements therein is punishable and shall include, but not be limited to, the
54 requestor’s name and address; the requestor’s driver’s license number or corporate identification
55 number; the requestor’s reason for requesting the record; the driver’s license number or the name,
56 address and birth date of the person whose driver record is requested; the license plate number or
57 VIN number of the vehicle for which a record is requested; any additional information determined
58 by the [chief administrator] to be appropriate and the requestor's certification as to the truth of the
59 foregoing statements. Prior to the approval of the written request form, the [commission] may also
60 require the requestor to submit documentary evidence supporting the reason for the request. In lieu
61 of completing a written request form for each record requested, the [commission] may permit a
62 person to complete and submit for approval of the [chief administrator] or the [chief
63 administrator’s designee], on a case by case basis, a written application form for participation in a

64 public information program on an ongoing basis. The written application form shall bear notice
65 that the making of false statements therein is punishable and shall include, but not be limited to,
66 the applicant's name, address and telephone number; the nature of the applicant's business
67 activity; a description of each of the applicant's intended uses of the information contained in the
68 motor vehicle records to be requested; the number of employees with access to the information;
69 the name, title and signature of the authorized company representative; and any additional
70 information determined by the [chief administrator] to be appropriate. The [chief administrator]
71 may also require the applicant to submit a copy of its business credentials, such as license to do
72 business or certificate of incorporation. Prior to approval by the [chief administrator] or the [chief
73 administrator's designee], the applicant shall certify in writing as to the truth of all statements
74 contained in the completed application form.

75 C. Personal information shall be disclosed for use in connection with matters of motor
76 vehicle or driver safety and theft; motor vehicle emissions; motor vehicle product alterations,
77 recalls or advisories; performance monitoring of motor vehicles and dealers by motor vehicle
78 manufacturers; and removal of non-owner records from the original owner records of motor
79 vehicle manufacturers to carry out the purposes of the Automobile Information Disclosure Act,
80 Pub.L.85-506, the Motor Vehicle Information and Cost Saving Act, Pub.L.92-513, the National
81 Traffic and Motor Vehicle Safety Act of 1966, Pub.L.89-563, the Anti-Car Theft Act of 1992,
82 Pub.L.102-519, and the Clean Air Act, Pub.L.88-206, and may be disclosed as follows:

83 (1) for use by any government agency, including any court or law enforcement
84 agency in carrying out its functions, or any private person or entity acting on behalf of a federal,
85 state or local agency in carrying out its functions.

86 (2) for use in connection with matters of motor vehicle or driver safety and theft;
87 motor vehicle emissions; motor vehicle product alterations, recalls, or advisories; performance
88 monitoring of motor vehicles, motor vehicle parts and dealers; motor vehicle market research
89 activities, including survey research; and the removal of non-owner records from the original
90 owner records of motor vehicle manufacturers.

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

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

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

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

102 (5) for use in research activities, and for use in producing statistical reports, so long
103 as the personal information is not published, re-disclosed, or used to contact individuals.

104 (6) for use by any insurer or insurance support organization, or by a self-insured
105 entity, or its agents, employees, or contractors, in connection with claims investigation activities,
106 antifraud activities, rating or underwriting.

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

108 (8) for use by an employer or its agent or insurer to obtain or verify information
109 relating to a holder of a commercial driver's license that is required under the "Commercial Motor
110 Vehicle Safety Act," 49 U.S.C.App. s.2710 et seq.

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

112 (10) for use by any requester, if the requester demonstrates it has obtained the
113 notarized written consent of the individual to whom the information pertains.

114 (11) for product and service mail communications from automotive-related
115 manufacturers, dealers and businesses, if the [commission] has implemented methods and
116 procedures to ensure that:

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

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

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

129 D. As provided by the federal "Drivers' Privacy Protection Act of 1994," Pub.L.103-322, a
130 person authorized to receive personal information under paragraphs (1) through (10) of subsection
131 C of this section may resell or re-disclose the personal information only for a use permitted by
132 paragraphs (1) through (10) of subsection C of this section subject to regulation by the
133 [commission]. A person authorized to receive personal information under paragraph (11) of
134 subsection C of this section may resell or re-disclose the personal information pursuant to
135 paragraph (11) of subsection C of this section subject to regulation by the [commission]. An
136 organization authorized to receive personal information under paragraph (12) of subsection C of
137 this section may re-disclose the personal information only for the purposes set forth in that
138 paragraph.

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

146 F. The release of personal information under this section shall not include an individual's
147 Social Security Number except in accordance with applicable state or federal law.

148
149 Section 4. *[Donating Organs or Body Parts by Will.]*

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

154 B. A gift of all or part of the body under section 2 A of this Act may also be made by
155 document other than a will. The gift becomes effective upon the death of the donor. The
156 document, which may be a card designed to be carried on the person, must be signed by the donor.
157 If the donor cannot sign, the document may be signed for them at their direction and in their
158 presence in the presence of [two] witnesses who must sign the document in their presence.
159 Delivery of the document of gift during the donor's lifetime is not necessary to make the gift valid.

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

166 D. Notwithstanding [insert citation] a donor may designate in their will, card, or other
167 document of gift the surgeon or physician to carry out the appropriate procedures. In the absence
168 of a designation or if the designee is not available, the donee or other person authorized to accept
169 the gift may employ or authorize any surgeon or physician for the purpose or, in the case of a gift
170 of eyes, they may employ or authorize a practitioner of mortuary science licensed by the [State
171 Board of Mortuary Science], an eye bank technician or a medical student who has successfully
172 completed a course in eye enucleation approved by the [State Board of Medical Examiners] to
173 enucleate eyes for the gift after certification of death by a physician. A practitioner of mortuary
174 science, an eye bank technician or a medical student acting in accordance with the provisions of
175 this subsection shall not have any liability, civil or criminal, for the eye enucleation.

176 E. Any gift by a person under [insert citation] designated in this Act shall be made by a
177 document signed by them or made by their telegraphic, recorded telephonic, or other recorded
178 message.

179 F. The intent of a decedent to give all or any part of his body as a gift pursuant to this Act,
180 as evidenced by the possession of a donor card, donor designation on a driver's license, advance
181 directive pursuant to [insert citation], other document of gift, or by registration with a statewide
182 organ and tissue donor registry, shall not be revoked by any person designated as [insert title] as
183 defined under [insert citation], nor shall the consent of any such person at the time of the donor's
184 death or immediately thereafter be necessary to render the gift valid and effective.

185
186 Section 5. [*Severability.*] [Insert severability clause.]

187
188 Section 6. [*Repealer.*] [Insert repealer clause.]

189
190 Section 7. [*Effective Date.*] [Insert effective date.]