

S T A T E O F N E W Y O R K

8156--A

2009-2010 Regular Sessions

I N A S S E M B L Y

May 6, 2009

Introduced by M. of A. KAVANAGH -- read once and referred to the Committee on Consumer Affairs and Protection -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT in relation to creating a temporary state commission on personal privacy to examine and assess the privacy of individuals in the state of New York and to make recommendations relative to the protection thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. New York state historically has been a leader in protecting
2 the personal privacy of its citizens. Today governmental agencies and
3 commercial firms are constantly gathering and distributing more and more
4 detailed information on the personal lives of the citizens of New York.
5 The rapid advancement in technology in recent years has created new
6 potential threats to the privacy of individuals. The ability to collect,
7 collate, and transmit personal data using information technology now
8 allows isolated pieces of information on an individual to be compiled
9 into profiles of the individual. No comprehensive federal or state law
10 governs personal privacy, nor is any federal or state agency charged
11 with the sole responsibility of identifying personal privacy problems
12 that need to be addressed and encouraging the development and enactment
13 of policies aimed at protecting individuals' privacy. A thorough understanding of the potential dangers to personal privacy is necessary in
14 order that the legislature may take the appropriate steps to protect the
15 privacy of the state's citizens at this pivotal point in time.
16 S 2. A temporary state commission is hereby established to be known as
17 the "commission on personal privacy". The role of the commission
18 includes, but is not limited to:
19

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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1 (a) assessing the level of citizen concern about personal privacy and,
2 to the extent possible, the incidence of privacy intrusions suffered by
3 New York citizens;

4 (b) examining the practices of state and local governmental agencies
5 and businesses related to the collection, storage, and distribution of
6 personal information and assessing the potential privacy issues associ-
7 ated with such collection, storage and distribution;

8 (c) assessing the scope and effectiveness of existing federal and
9 state privacy protection laws and self-regulatory efforts undertaken by
10 businesses in protecting personal privacy;

11 (d) recommending appropriate legislative and administrative reforms
12 relating to state systems that collect and maintain personal information
13 of employees, public retirees and other persons to ensure that personal
14 information is not subject to misappropriation; and

15 (e) recommending appropriate legislation relating to the collection,
16 storage, and distribution of personal information by businesses to
17 ensure that personal information is not subject to misappropriation.

18 S 3. The commission shall make a report to the governor and the legis-
19 lature of its findings, conclusions, and recommendations no later than
20 November 1, 2011, and shall submit with its report such legislative
21 proposals as it deems necessary to implement its recommendations.

22 S 4. The commission shall consist of a total of fifteen members and
23 shall include the chairperson of the consumer protection board, the
24 secretary of state, the director of the office for technology, and the
25 attorney general, or a designee of any of said officers. The remaining
26 eleven, at-large members shall be appointed as follows: three shall be
27 appointed by the governor; three shall be appointed by the temporary
28 president of the senate and one by the minority leader of the senate;
29 three shall be appointed by the speaker of the assembly and one by the
30 minority leader of the assembly. One each of the appointments of the
31 governor, temporary president of the senate, and the speaker of the
32 assembly shall be a member, officer, or employee of a consumer advocacy
33 organization. One of the appointments of the governor shall be a
34 member, officer, or employee of a statewide association representing and
35 advocating for the interests of businesses. One of the appointments of
36 the governor shall be a member, officer, or employee of a statewide
37 association representing and advocating for the interests of local
38 governments. One of the appointments of the speaker of the assembly
39 shall be an individual who has conducted academic research on personal
40 privacy protection. One of the appointments of the speaker of the assem-
41 bly shall be a member, officer, or employee of a manufacturer of systems
42 used by state and local governments to electronically store data. One of
43 the appointments of the temporary president of the senate shall be a
44 member, officer, or employee of a statewide trade association represent-
45 ing the health care industry. One of the appointments of the temporary
46 president of the senate shall be a member, officer, or employee of a
47 statewide trade association representing financial institutions. An
48 organization shall be considered a consumer advocacy organization if it
49 advocates for enhanced consumer protection in the marketplace, educates
50 consumers, and researches and analyzes consumer issues, including
51 consumers' right to privacy.

52 S 5. The chairperson of the consumer protection board shall serve as
53 chairperson of the commission. The commission may consult with any
54 organization, educational institution, governmental agency, or person.

1 S 6. The members of the commission shall serve without compensation,
2 except that at-large members shall be allowed their necessary and actual
3 expenses incurred in the performance of their duties under this act.
4 S 7. The consumer protection board shall provide the commission with
5 such facilities, assistance, and data as will enable the commission to
6 carry out its powers and duties. Additionally, all other departments or
7 agencies of the state or subdivisions thereof shall, at the request of
8 the chairpersons, provide the task force with such facilities, assist-
9 ance, and data as will enable the commission to carry out its powers and
10 duties.
11 S 8. This act shall take effect immediately.