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

3790

2009-2010 Regular Sessions

I N S E N A T E

April 1, 2009

Introduced by Sen. MONSERRATE -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to establish a task force on the privacy implications of radio frequency identification technology

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

Section 1. Legislative intent. The legislature finds that the right to privacy is a personal and fundamental right protected by the United States constitution. The legislature additionally finds that systems used to transmit the identity of an object or person using radio waves or other wireless means, commonly referred to as radio frequency identification technology, are increasingly being used by public and private entities, including retailers, manufacturers, and hospitals. Moreover, the legislature recognizes that as the price of radio frequency identification technology decreases, the employment of this technology is expected to increase rapidly. The legislature recognizes that radio frequency identification technology may have numerous privacy implications affecting consumers and the general public. The legislature further recognizes that radio frequency identification technology may have numerous applications beneficial to public and private entities and shared by consumers and the general public. The legislature further recognizes that radio frequency identification technology needs to undergo a formal technology assessment. The legislature additionally finds that an assessment of the need to review the privacy implications and protections and practical applications of this technology is warranted.

S 2. The New York state radio frequency identification privacy task force is hereby established. The role of the task force includes, but is not limited to:

(a) assessing the privacy issues associated with the use of radio frequency identification technologies by public and private entities,

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

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including but not limited to, state, county, and local governments, retailers, manufacturers, employers, and schools;

(b) assessing the practical applications associated with radio frequency identification technologies, including, but not limited to, the tracking of merchandise within a chain of distribution, protection of merchandise against theft, and other beneficial uses by state, county and local governments, retailers, manufacturers, employers and schools;

(c) assessing whether or not the use of radio frequency identification technology by businesses and the state and its political subdivisions should be prohibited or restricted and whether or not legislation is necessary to regulate the use of such technology; and

(d) preparing a report for submission to the governor and the legislature that provides specific recommendations regarding: existing state laws, regulations, programs, policies, and practices related to the use of radio frequency identification technology; the privacy issues associated with the use of radio frequency identification technology by public and private entities; research on privacy issues associated with the use of radio frequency identification technology; current and anticipated or possible future uses of radio frequency identification technology; the benefits to consumers and businesses from the use of radio frequency identification technology; the need to prohibit or restrict the use of radio frequency identification technology in certain situations; and public awareness on the use of radio frequency identification technology.

S 3. The task force shall issue its findings, in the form of a report, no later than November 30, 2011.

S 4. The task force shall consist of a total of seventeen members and shall include the chairperson of the consumer protection board, the secretary of state, the commissioner of education, the director of the office for technology, the attorney general, and the mayor of the city of New York, or a designee of any of said officers. The remaining eleven, at-large members shall be appointed as follows: three shall be appointed by the governor; three shall be appointed by the temporary president of the senate and one by the minority leader of the senate; three shall be appointed by the speaker of the assembly and one by the minority leader of the assembly. One each of the appointments of the governor, temporary president of the senate, and the speaker of the assembly shall be a member, officer, or employee of a consumer advocacy organization.

One of the appointments of the governor shall be a member, officer, or employee of a national high technology trade association with a significant presence in the state representing the radio frequency identification technology manufacturing industry. One of the appointments of the governor shall be a member, officer, or employee of a statewide association representing and advocating for the interests of local governments. One of the appointments of the speaker of the assembly shall be a member, officer, or employee of a statewide trade association representing primarily retail businesses. One of the appointments of the speaker of the assembly shall be a member, officer, or employee of a manufacturer of radio frequency identification systems. One of the appointments of the temporary president of the senate shall be a member, officer, or employee of a statewide trade association representing the grocery industry. One of the appointments of the temporary president of the senate shall be a member, officer, or employee of a financial institution that employs radio frequency identification systems in one or more of its products. An organization shall be considered a consumer

advocacy organization if it advocates for enhanced consumer protection in the marketplace, educates consumers, and researches and analyzes consumer issues, including consumers' right to privacy.

S 5. The chairperson of the consumer protection board and the director of the office for technology or their designees shall serve as joint chairpersons of the task force.

S 6. The task force may consult with any organization, educational institution, governmental agency, or person including, but not limited to, the federal trade commission, the federal communications commission, and the Electronic Privacy Information Center, a public interest research center that advocates for first amendment and individual privacy rights.

S 7. The chairpersons of the task force may reconvene the task force, with the same or different members, after issuance of the report, to address any other or further privacy issues associated with the use of radio frequency identification technology.

S 8. The members of the task force shall serve without compensation, except that at-large members shall be allowed their necessary and actual expenses incurred in the performance of their duties under this act.

S 9. The consumer protection board shall provide the task force with such facilities, assistance, and data as will enable the task force to carry out its powers and duties. Additionally, all other departments or agencies of the state or subdivisions thereof shall, at the request of the chairpersons, provide the task force with such facilities, assistance, and data as will enable the task force to carry out its powers and duties.

S 10. This act shall take effect immediately.