

2009-2010 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 7, 2009

Introduced by M. of A. PHEFFER, DESTITO, KAVANAGH -- Multi-Sponsored by
-- M. of A. BOYLAND, FARRELL, WALKER -- read once and referred to the
Committee on Consumer Affairs and 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 ASSEM-
BLY, DO ENACT AS FOLLOWS:

1 Section 1. Legislative intent. The legislature finds that the right to
2 privacy is a personal and fundamental right protected by the United
3 States constitution. The legislature additionally finds that systems
4 used to transmit the identity of an object or person using radio waves
5 or other wireless means, commonly referred to as radio frequency iden-
6 tification technology, are increasingly being used by public and private
7 entities, including retailers, manufacturers, and hospitals. Moreover,
8 the legislature recognizes that as the price of radio frequency iden-
9 tification technology decreases, the employment of this technology is
10 expected to increase rapidly. The legislature recognizes that radio
11 frequency identification technology may have numerous privacy impli-
12 cations affecting consumers and the general public. The legislature
13 further recognizes that radio frequency identification technology may
14 have numerous applications beneficial to public and private entities and
15 shared by consumers and the general public. The legislature further
16 recognizes that radio frequency identification technology needs to
17 undergo a formal technology assessment. The legislature additionally
18 finds that an assessment of the need to review the privacy implications
19 and protections and practical applications of this technology is
20 warranted.

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

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

LBD03053-01-9

1 (a) assessing the privacy issues associated with the use of radio
2 frequency identification technologies by public and private entities,
3 including but not limited to, state, county, and local governments,
4 retailers, manufacturers, employers, and schools;

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

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

14 (d) preparing a report for submission to the governor and the legisla-
15 ture that provides specific recommendations regarding: existing state
16 laws, regulations, programs, policies, and practices related to the use
17 of radio frequency identification technology; the privacy issues associ-
18 ated with the use of radio frequency identification technology by public
19 and private entities; research on privacy issues associated with the use
20 of radio frequency identification technology; current and anticipated or
21 possible future uses of radio frequency identification technology; the
22 benefits to consumers and businesses from the use of radio frequency
23 identification technology; the need to prohibit or restrict the use of
24 radio frequency identification technology in certain situations; and
25 public awareness on the use of radio frequency identification technolo-
26 gy.

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

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

42 One of the appointments of the governor shall be a member, officer, or
43 employee of a national high technology trade association with a signif-
44 icant presence in the state representing the radio frequency identifica-
45 tion technology manufacturing industry. One of the appointments of the
46 governor shall be a member, officer, or employee of a statewide associ-
47 ation representing and advocating for the interests of local govern-
48 ments. One of the appointments of the speaker of the assembly shall be
49 a member, officer, or employee of a statewide trade association repres-
50 enting primarily retail businesses. One of the appointments of the
51 speaker of the assembly shall be a member, officer, or employee of a
52 manufacturer of radio frequency identification systems. One of the
53 appointments of the temporary president of the senate shall be a member,
54 officer, or employee of a statewide trade association representing the
55 grocery industry. One of the appointments of the temporary president of
56 the senate shall be a member, officer, or employee of a financial insti-

1 tution that employs radio frequency identification systems in one or
2 more of its products. An organization shall be considered a consumer
3 advocacy organization if it advocates for enhanced consumer protection
4 in the marketplace, educates consumers, and researches and analyzes
5 consumer issues, including consumers' right to privacy.

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

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

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

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

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

29 S 10. This act shall take effect immediately.