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I N   A S S E M B L Y

(PREFILED)

January 7, 2009

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Introduced by M. of A. PHEFFER, DESTITO, KAVANAGH, JAFFEE, ROSENTHAL --  
Multi-Sponsored by -- M. of A. BOYLAND, FARRELL -- read once and  
referred to the Committee on Consumer Affairs and Protection --  
reported from committee, advanced to a third reading, amended and  
ordered reprinted, retaining its place on the order of third reading

AN ACT to establish the New York state automatic identification technol-  
ogy privacy task force

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 new technol-  
2     ogies can have a profound impact on people and social systems. The use  
3     of new technologies can be very beneficial, but care must be taken to  
4     ensure that such technologies are used responsibly. Automated systems  
5     used to identify, track, record, store and transfer data, commonly  
6     referred to as automatic identification technology, are increasingly  
7     being used by public and private entities, including retailers, manufac-  
8     turers, and hospitals. The legislature recognizes that as the price of  
9     automatic identification technology decreases, the employment of this  
10    technology is expected to increase rapidly. The legislature further  
11    recognizes that automatic identification technologies may have privacy  
12    implications affecting consumers and the general public. The legislature  
13    further recognizes that such technology has numerous applications bene-  
14    ficial to public and private entities and affecting both consumers and  
15    the general public. The legislature further recognizes that understand-  
16    ing various applications and potential privacy concerns regarding auto-  
17    matic identification technology is an area that needs study and review  
18    in order to determine what protections, if any, are needed to protect  
19    personal privacy.

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

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LBD03053-06-9

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

4 (a) assessing the privacy issues associated with the application of  
5 automatic identification technologies, including but not limited to  
6 optical bar code scanning, radio frequency identification, smart card,  
7 and optical memory card technologies by public and private entities,  
8 including but not limited to, state, county, and local governments,  
9 retailers, manufacturers, employers, and schools;

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

15 (c) preparing a report for submission to the governor and the legisla-  
16 ture that provides specific recommendations regarding: existing state  
17 laws, regulations, programs, policies, and practices related to the use  
18 of automatic identification technology and whether legislation is neces-  
19 sary to regulate the use of such technology; the privacy issues associ-  
20 ated with the use of automatic identification technology by public and  
21 private entities; research on privacy issues associated with the use of  
22 automatic identification technology; current and anticipated or possible  
23 future uses of automatic identification technology; the benefits to  
24 consumers and businesses from the use of automatic identification tech-  
25 nology; and public awareness on the use of automatic identification  
26 technology.

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. One of the appointments of the governor shall be a member,  
42 officer, or employee of a financial institution that employs automatic  
43 identification technology systems in one or more of its products. One of  
44 the appointments of the governor shall be a member, officer, or employee  
45 of a statewide association representing and advocating for the interests  
46 of local governments. One of the appointments of the speaker of the  
47 assembly shall be a member, officer, or employee of a statewide trade  
48 association representing primarily retail businesses. One of the  
49 appointments of the speaker of the assembly shall be a member, officer,  
50 or employee of a manufacturer of radio frequency identification systems.  
51 One of the appointments of the temporary president of the senate shall  
52 be a member, officer, or employee of a statewide trade association  
53 representing the grocery industry. One of the appointments of the tempo-  
54 rary president of the senate shall be a member, officer, or employee of  
55 a national high technology trade association with a significant presence  
56 in the state representing the radio frequency identification technology

1 manufacturing industry. An organization shall be considered a consumer  
2 advocacy organization if it advocates for enhanced consumer protection  
3 in the marketplace, educates consumers, and researches and analyzes  
4 consumer issues, including consumers' right to privacy.

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

8 S 6. The task force may consult with any organization, educational  
9 institution, governmental agency, or person.

10 S 7. The members of the task force shall serve without compensation,  
11 except that at-large members shall be allowed their necessary and actual  
12 expenses incurred in the performance of their duties under this act.

13 S 8. The consumer protection board shall provide the task force with  
14 such facilities, assistance, and data as will enable the task force to  
15 carry out its powers and duties. Additionally, all other departments or  
16 agencies of the state or subdivisions thereof shall, at the request of  
17 the chairpersons, provide the task force with such facilities, assist-  
18 ance, and data as will enable the task force to carry out its powers and  
19 duties.

20 S 9. This act shall take effect immediately.