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

3790--A

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 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to establish the New York state automatic identification technology privacy task force

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 new technologies can have a profound impact on people and social systems. The use of new technologies can be very beneficial, but care must be taken to ensure that such technologies are used responsibly. Automated systems used to identify, track, record, store and transfer data, commonly referred to as automatic identification technology, are increasingly being used by public and private entities, including retailers, manufacturers, and hospitals. The legislature recognizes that as the price of automatic identification technology decreases, the employment of this technology is expected to increase rapidly. The legislature further recognizes that automatic identification technologies may have privacy implications affecting consumers and the general public. The legislature further recognizes that such technology has numerous applications beneficial to public and private entities and affecting both consumers and the general public. The legislature further recognizes that understanding various applications and potential privacy concerns regarding automatic identification technology is an area that needs study and review in order to determine what protections, if any, are needed to protect personal privacy.

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

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

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

(b) assessing the practical applications associated with automatic 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; and

(c) 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 automatic identification technology and whether legislation is necessary to regulate the use of such technology; the privacy issues associated with the use of automatic identification technology by public and private entities; research on privacy issues associated with the use of automatic identification technology; current and anticipated or possible future uses of automatic identification technology; the benefits to consumers and businesses from the use of automatic identification technology; and public awareness on the use of automatic 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 financial institution that employs automatic identification technology systems in one or more of its products. 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 national high technology trade association with a significant presence in the state representing the radio frequency identification technology manufacturing industry. 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.

S 7. 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 8. 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 9. This act shall take effect immediately.