

8439

2011-2012 Regular Sessions

I N A S S E M B L Y

June 15, 2011

Introduced by M. of A. DINOWITZ, KAVANAGH, JAFFEE, ROSENTHAL -- Multi-Sponsored by -- M. of A. BOYLAND, FARRELL -- read once and referred to the Committee on Consumer Affairs and Protection

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:

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.

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

23 (a) assessing the privacy issues associated with the application of
24 automatic identification technologies, including but not limited to

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

LBD00365-04-1

1 optical bar code scanning, radio frequency identification, smart card,
2 and optical memory card 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 automatic
6 identification technologies, including, but not limited to, the tracking
7 of merchandise within a chain of distribution, protection of merchandise
8 against theft, and other beneficial uses by state, county and local
9 governments, retailers, manufacturers, employers and schools; and

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

22 S 3. The task force shall issue its findings, in the form of a report,
23 no later than November 30, 2013.

24 S 4. The task force shall consist of a total of seventeen members and
25 shall include the superintendent of the department of financial
26 services, the secretary of state, the commissioner of education, the
27 director of the office for technology, the attorney general, and the
28 mayor of the city of New York, or a designee of any of said officers.
29 The remaining eleven, at-large members shall be appointed as follows:
30 three shall be appointed by the governor; three shall be appointed by
31 the temporary president of the senate and one by the minority leader of
32 the senate; three shall be appointed by the speaker of the assembly and
33 one by the minority leader of the assembly. One each of the appointments
34 of the governor, temporary president of the senate, and the speaker of
35 the assembly shall be a member, officer, or employee of a consumer advo-
36 cacy organization. One of the appointments of the governor shall be a
37 member, officer, or employee of a financial institution that employs
38 automatic identification technology systems in one or more of its
39 products. One of the appointments of the governor shall be a member,
40 officer, or employee of a statewide association representing and advo-
41 cating for the interests of local governments. One of the appointments
42 of the speaker of the assembly shall be a member, officer, or employee
43 of a statewide trade association representing primarily retail busi-
44 nesses. One of the appointments of the speaker of the assembly shall be
45 a member, officer, or employee of a manufacturer of radio frequency
46 identification systems. One of the appointments of the temporary presi-
47 dent of the senate shall be a member, officer, or employee of a state-
48 wide trade association representing the grocery industry. One of the
49 appointments of the temporary president of the senate shall be a member,
50 officer, or employee of a national high technology trade association
51 with a significant presence in the state representing the radio frequen-
52 cy identification technology manufacturing industry. An organization
53 shall be considered a consumer advocacy organization if it advocates for
54 enhanced consumer protection in the marketplace, educates consumers, and
55 researches and analyzes consumer issues, including consumers' right to
56 privacy.

1 S 5. The secretary of state and the director of the office for tech-
2 nology or their designees shall serve as joint chairpersons of the task
3 force.

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

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

9 S 8. The secretary of state shall provide the task force with such
10 facilities, assistance, and data as will enable the task force to carry
11 out its powers and duties. Additionally, all other departments or agen-
12 cies of the state or subdivisions thereof shall, at the request of the
13 chairpersons, provide the task force with such facilities, assistance,
14 and data as will enable the task force to carry out its powers and
15 duties.

16 S 9. This act shall take effect immediately.