

3599

2011-2012 Regular Sessions

I N A S S E M B L Y

January 26, 2011

Introduced by M. of A. KAVANAGH, WEINSTEIN, SPANO, CASTRO, BOYLAND --
Multi-Sponsored by -- M. of A. MCENENY, ROBINSON -- read once and
referred to the Committee on Consumer Affairs and Protection

AN ACT in relation to creating a temporary state commission on personal
privacy to examine and assess the privacy of individuals in the state
of New York and to make recommendations relative to the protection
thereof

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

1 Section 1. New York state historically has been a leader in protecting
2 the personal privacy of its citizens. Today governmental agencies and
3 commercial firms are constantly gathering and distributing more and more
4 detailed information on the personal lives of the citizens of New York.
5 The rapid advancement in technology in recent years has created new
6 potential threats to the privacy of individuals. The ability to collect,
7 collate, and transmit personal data using information technology now
8 allows isolated pieces of information on an individual to be compiled
9 into profiles of the individual. No comprehensive federal or state law
10 governs personal privacy, nor is any federal or state agency charged
11 with the sole responsibility of identifying personal privacy problems
12 that need to be addressed and encouraging the development and enactment
13 of policies aimed at protecting individuals' privacy. A thorough under-
14 standing of the potential dangers to personal privacy is necessary in
15 order that the legislature may take the appropriate steps to protect the
16 privacy of the state's citizens at this pivotal point in time.

17 S 2. A temporary state commission is hereby established to be known as
18 the "commission on personal privacy". The role of the commission
19 includes, but is not limited to:

20 (a) assessing the level of citizen concern about personal privacy and,
21 to the extent possible, the incidence of privacy intrusions suffered by
22 New York citizens;

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

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1 (b) examining the practices of state and local governmental agencies
2 and businesses related to the collection, storage, and distribution of
3 personal information and assessing the potential privacy issues associ-
4 ated with such collection, storage and distribution;

5 (c) assessing the scope and effectiveness of existing federal and
6 state privacy protection laws and self-regulatory efforts undertaken by
7 businesses in protecting personal privacy;

8 (d) recommending appropriate legislative and administrative reforms
9 relating to state systems that collect and maintain personal information
10 of employees, public retirees and other persons to ensure that personal
11 information is not subject to misappropriation; and

12 (e) recommending appropriate legislation relating to the collection,
13 storage, and distribution of personal information by businesses to
14 ensure that personal information is not subject to misappropriation.

15 S 3. The commission shall make a report to the governor and the legis-
16 lature of its findings, conclusions, and recommendations no later than
17 November 1, 2013, and shall submit with its report such legislative
18 proposals as it deems necessary to implement its recommendations.

19 S 4. The commission shall consist of a total of fifteen members and
20 shall include the chairperson of the consumer protection board, the
21 secretary of state, the director of the office for technology, and the
22 attorney general, or a designee of any of said officers. The remaining
23 eleven, at-large members shall be appointed as follows: three shall be
24 appointed by the governor; three shall be appointed by the temporary
25 president of the senate and one by the minority leader of the senate;
26 three shall be appointed by the speaker of the assembly and one by the
27 minority leader of the assembly. One each of the appointments of the
28 governor, temporary president of the senate, and the speaker of the
29 assembly shall be a member, officer, or employee of a consumer advocacy
30 organization. One of the appointments of the governor shall be a
31 member, officer, or employee of a statewide association representing and
32 advocating for the interests of businesses. One of the appointments of
33 the governor shall be a member, officer, or employee of a statewide
34 association representing and advocating for the interests of local
35 governments. One of the appointments of the speaker of the assembly
36 shall be an individual who has conducted academic research on personal
37 privacy protection. One of the appointments of the speaker of the assem-
38 bly shall be a member, officer, or employee of a manufacturer of systems
39 used by state and local governments to electronically store data. One of
40 the appointments of the temporary president of the senate shall be a
41 member, officer, or employee of a statewide trade association represent-
42 ing the health care industry. One of the appointments of the temporary
43 president of the senate shall be a member, officer, or employee of a
44 statewide trade association representing financial institutions. An
45 organization shall be considered a consumer advocacy organization if it
46 advocates for enhanced consumer protection in the marketplace, educates
47 consumers, and researches and analyzes consumer issues, including
48 consumers' right to privacy.

49 S 5. The chairperson of the consumer protection board shall serve as
50 chairperson of the commission. The commission may consult with any
51 organization, educational institution, governmental agency, or person.

52 S 6. The members of the commission shall serve without compensation,
53 except that at-large members shall be allowed their necessary and actual
54 expenses incurred in the performance of their duties under this act.

55 S 7. The consumer protection board shall provide the commission with
56 such facilities, assistance, and data as will enable the commission to

1 carry out its powers and duties. Additionally, all other departments or
2 agencies of the state or subdivisions thereof shall, at the request of
3 the chairpersons, provide the task force with such facilities, assist-
4 ance, and data as will enable the commission to carry out its powers and
5 duties.
6 S 8. This act shall take effect immediately.