

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

3599--B

2011-2012 Regular Sessions

I N A S S E M B L Y

January 26, 2011

Introduced by M. of A. KAVANAGH, WEINSTEIN, CASTRO, BOYLAND -- Multi-Sponsored by -- M. of A. MCENENY, ROBINSON -- read once and referred to the Committee on Consumer Affairs and Protection -- recommitted to the Committee on Consumer Affairs and Protection in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- again reported from said committee with amendments, ordered reprinted as amended and recommitted to said committee

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; and providing for the repeal of such provisions upon the expiration thereof

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, 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.

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

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

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

7 (b) examining the practices of state and local governmental agencies
8 and businesses related to the collection, storage, and distribution of
9 personal information and assessing the potential privacy issues associ-
10 ated with such collection, storage and distribution;

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

14 (d) recommending appropriate legislative and administrative reforms
15 relating to state systems that collect and maintain personal information
16 of employees, public retirees and other persons to ensure that personal
17 information is not subject to misappropriation; and

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

21 S 3. The commission shall make a preliminary report to the governor
22 and the legislature of its findings, conclusions, and recommendations
23 not later than the one hundred eightieth day after the effective date of
24 this section and a final report of its findings, conclusions, and recom-
25 mendations not later than one year after the effective date of this
26 section, and shall submit with its reports such legislative proposals as
27 it deems necessary to implement its recommendations.

28 S 4. The commission shall consist of a total of fifteen members who
29 shall be appointed not later than the thirtieth day after the effective
30 date of this section and shall include the superintendent of the depart-
31 ment of financial services, the secretary of state, the director of the
32 office for technology, and the attorney general, or a designee of any of
33 said officers. The remaining eleven, at-large members shall be appointed
34 as follows: three shall be appointed by the governor; three shall be
35 appointed by the temporary president of the senate and one by the minor-
36 ity leader of the senate; three shall be appointed by the speaker of the
37 assembly and one by the minority leader of the assembly. One each of the
38 appointments of the governor, temporary president of the senate, and the
39 speaker of the assembly shall be a member, officer, or employee of a
40 consumer advocacy organization. One of the appointments of the governor
41 shall be a member, officer, or employee of a statewide association
42 representing and advocating for the interests of businesses. One of the
43 appointments of the governor shall be a member, officer, or employee of
44 a statewide association representing and advocating for the interests of
45 local governments. One of the appointments of the speaker of the assem-
46 bly shall be an individual who has conducted academic research on
47 personal privacy protection. One of the appointments of the speaker of
48 the assembly shall be a member, officer, or employee of a manufacturer
49 of systems used by state and local governments to electronically store
50 data. One of the appointments of the temporary president of the senate
51 shall be a member, officer, or employee of a statewide trade association
52 representing the health care industry. One of the appointments of the
53 temporary president of the senate shall be a member, officer, or employ-
54 ee of a statewide trade association representing financial institutions.
55 An organization shall be considered a consumer advocacy organization if
56 it advocates for enhanced consumer protection in the marketplace,

1 educates consumers, and researches and analyzes consumer issues, includ-
2 ing consumers' right to privacy.

3 S 5. The secretary of state shall serve as chairperson of the commis-
4 sion. The commission may consult with any organization, educational
5 institution, governmental agency, or person.

6 S 6. The members of the commission 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 7. The department of state shall provide the commission with such
10 facilities, assistance, and data as will enable the commission 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 chairperson, provide the task force with such facilities, assistance,
14 and data as will enable the commission to carry out its powers and
15 duties.

16 S 8. With the approval of the chairperson of the commission, members
17 of the commission may participate in meetings of the commission by means
18 of videoconference or similar equipment that allows all members partic-
19 ipating in such meetings to see and hear each other at the same time and
20 allows the public attending the meeting in person to see and hear the
21 members of the commission participating in such manner.

22 S 9. This act shall take effect on the thirtieth day after it shall
23 have become a law and shall expire and be deemed repealed on the three
24 hundred ninety-fifth day after it shall have taken effect.