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

2111--A

2013-2014 Regular Sessions

I N A S S E M B L Y

(PREFILED)

January 9, 2013

Introduced by M. of A. KAVANAGH, BOYLAND, WEINSTEIN -- Multi-Sponsored by -- M. of A. ROBINSON -- read once and referred to the Committee on Consumer Affairs and Protection -- reported and referred to the Committee on Ways and Means -- committee discharged, bill amended, 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:

Section 1. New York state historically has been a leader in protecting the personal privacy of its citizens. Today governmental agencies and commercial firms are constantly gathering and distributing more and more detailed information on the personal lives of the citizens of New York. The rapid advancement in technology in recent years has created new potential threats to the privacy of individuals. The ability to collect, collate, and transmit personal data using information technology now allows isolated pieces of information on an individual to be compiled into profiles of the individual. No comprehensive federal or state law governs personal privacy, nor is any federal or state agency charged with the sole responsibility of identifying personal privacy problems that need to be addressed and encouraging the development and enactment of policies aimed at protecting individuals' privacy. A thorough understanding of the potential dangers to personal privacy is necessary in order that the legislature may take the appropriate steps to protect the 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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S 2. A temporary state commission is hereby established to be known as the "commission on personal privacy". The role of the commission includes, but is not limited to:

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

(b) examining the practices of state and local governmental agencies and businesses related to the collection, storage, and distribution of personal information and assessing the potential privacy issues associated with such collection, storage and distribution;

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

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

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

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

S 4. The commission shall consist of a total of fifteen members who shall be appointed not later than the thirtieth day after the effective date of this section and shall include the superintendent of the department of financial services, the secretary of state, the director of the office of information technology services, and the attorney general, 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 statewide association representing and advocating for the interests of businesses. 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 an individual who has conducted academic research on personal privacy protection. One of the appointments of the speaker of the assembly shall be a member, officer, or employee of a manufacturer of systems used by state and local governments to electronically store data. 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 health care industry. One of the appointments of the temporary president of the senate shall be a member, officer, or employee of a statewide trade association representing financial institutions. 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 secretary of state shall serve as chairperson of the commission. The commission may consult with any organization, educational institution, governmental agency, or person.

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

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

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