

**SENATE . . . . . No. 142**

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**The Commonwealth of Massachusetts**

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**In the Year Two Thousand Nine**  
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An Act further regulating radio frequency identification devices in the Commonwealth ..

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 SECTION 1. Section 104 of chapter 93 of the General Laws, as appearing in the 2002  
2 Official Edition, is hereby amended by striking out, in lines 1 and 2, the words “section one  
3 hundred and five” an inserting in place thereof the following words:- sections 105 and 105A.

4 SECTION 2. Said section 104 of said chapter 93, as so appearing, is hereby further  
5 amended by inserting after the definition of “Credit Card” the following 4 definitions:-

6 “Personally identifiable information,” information that can be used to uniquely identify a  
7 person including, but not limited to, name, address, credit card information, or telephone  
8 number.

9 “Radio frequency identification” or “RFID”, a technology that incorporates the use of  
10 electromagnetic or electrostatic coupling in the radio frequency portion of the electromagnetic  
11 spectrum and that can be used to identify an object, animal, or person.

12 “Radio frequency identification reader” or “RFID reader”, an electronic device capable  
13 of reading, activating, triggering, or receiving information or data from a radio frequency  
14 identification tag.

15 “Radio frequency identification system” or “RFID system”, a combination of electronic  
16 and other devices including, but not limited to, RFID readers, tags, transmitters, processors,  
17 antennae, computers, visual displays and automated checkout systems, which enable the owner  
18 or user of the devices to track, monitor, record, identify, process, charge for, surveil, read,  
19 encode, decode, or disable a radio frequency identification tag.

20 “Radio frequency identification tag” or “RFID tag”, an electronic identifier comprised of  
21 electronic tags, electronic product codes, electronic chips, circuits or other triggering devices  
22 which contain identification information, data signals or other information related to the  
23 product, manufacturer, contents, serial number, date, purchaser, seller, destination, origin,  
24 package, carton, material, object or person to which it is attached, embedded or associated, and  
25 which information or data is capable of being wirelessly transmitted to or read by an RFID  
26 reader or system.

27 SECTION 3. Said chapter 93 is hereby amended by inserting after section 105, as so  
28 appearing, the following section:-

29 Section 105A. (a) A commercial entity that uses an RFID system in their normal course  
30 of commerce that includes readers placed in the customer shopping area, shall display a sign  
31 placed in a conspicuous location printed in a conspicuous type size, in contrast with the  
32 background against which it appears. The sign shall be readable by a consumer before the  
33 consumer comes in contact with the RFID system. The sign shall state that: (1) the store uses

34 radio frequency identification technology; (2) the radio frequency identification tag contains  
35 information about the product that can be accessed by a reader both before and after the  
36 purchase; and (3) a description of the purpose of the readers.

37 (b) Any product that utilizes an RFID tag shall contain a logo or identifier on the product  
38 or packaging, and a label placed in a conspicuous location and printed in a conspicuous type size,  
39 in contrast with the background against which it appears. The label shall state that: (1) the  
40 product contains a radio frequency identification tag; and (2) the radio frequency identification  
41 tag contains information about the product that can be accessed by a reader both before and after  
42 the purchase.

43 (c) RFID tags that are not components essential to the tagged item's operation shall be  
44 attached in such a way as to allow individuals to remove the tag after the item has been  
45 purchased without damaging the item.

46 (d) An RFID reader or system used by a commercial entity in their normal course of  
47 commerce shall only store, encode or track RFID tags attached to an item listed in the inventory  
48 of that commercial entity as un-purchased, except in cases of product returns, product recalls or  
49 for warranty purposes.

50 SECTION 4. The attorney general shall promulgate regulations necessary to carry out  
51 this act.