

SENATE No. 1850

The Commonwealth of Massachusetts

PRESENTED BY:

Thomas P. Kennedy

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:

The undersigned legislators and/or citizens respectfully petition for the adoption of the accompanying bill:

An Act further regulating radio frequency identification devices in the Commonwealth.

PETITION OF:

NAME:

Thomas P. Kennedy

DISTRICT/ADDRESS:

SENATE No. 1850

By Mr. Kennedy, a petition (accompanied by bill, Senate, No. 1850) of Thomas P. Kennedy for legislation to further regulate radio frequency identification devices in the Commonwealth. Consumer Protection and Professional Licensure.

[SIMILAR MATTER FILED IN PREVIOUS SESSION
SEE SENATE, NO. 142 OF 2009-2010.]

The Commonwealth of Massachusetts

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In the Year Two Thousand Eleven
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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 of
13 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.