

# SENATE NO. 159

## **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 follow*

1 SECTION 1. Section 104 of chapter 93 of the General Laws, as appearing in the 2002 Official Edition,  
2 is hereby amended by striking out, in lines 1 and 2, the words “section one hundred and five” an  
3 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 amended by  
5 inserting after the definition of “Credit Card” the following 4 definitions:-

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

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

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

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

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

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

26 Section 105A. (a) A commercial entity that uses an RFID system in their normal course of commerce  
27 that includes readers placed in the customer shopping area, shall display a sign placed in a conspicuous  
28 location printed in a conspicuous type size, in contrast with the background against which it appears.

29 The sign shall be readable by a consumer before the consumer comes in contact with the RFID system.

30 The sign shall state that: (1) the store uses radio frequency identification technology; (2) the radio  
31 frequency identification tag contains information about the product that can be accessed by a reader  
32 both before and after the purchase; and (3) a description of the purpose of the readers.

33 (b) Any product that utilizes an RFID tag shall contain a logo or identifier on the product or  
34 packaging, and a label placed in a conspicuous location and printed in a conspicuous type size, in  
35 contrast with the background against which it appears. The label shall state that: (1) the product

36 contains a radio frequency identification tag; and (2) the radio frequency identification tag contains  
37 information about the product that can be accessed by a reader both before and after the purchase.

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

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

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