

Department of Planning and Budget
2009 Fiscal Impact Statement

1. Bill Number: SB1255

House of Origin X Introduced ___ Substitute ___ Engrossed
Second House ___ In Committee ___ Substitute ___ Enrolled

2. Patron: Marsh

3. Committee: Commerce and Labor

4. Title: Radio frequency identification systems

5. Summary: The bill requires suppliers of consumer products to which radio frequency identification (RFID) tags have been affixed or implanted to affix to the product or its packaging a conspicuous label stating that the product contains a remotely readable device with information about the product that can be read if it is brought within range of a reader device. Suppliers that use an RFID system in the normal course of business are required to display a sign stating that: (i) the store uses radio frequency identification technology; (ii) a radio frequency identification tag affixed to or implanted in a product contains information about the product that can be accessed by an RFID reader both before and after its purchase; and (iii) a description of the purpose of the RFID system. RFID tags that are not components essential to the operation of a tagged consumer product's operation shall be attached in such a way as to allow their removal after the product has been purchased without damaging the product. An RFID reader or system shall only be used to store, encode, or track RFID tags attached to a consumer product that is listed in the inventory of that supplier as not purchased, except for product returns, recalls, or for warranty purposes. In addition, with certain exceptions, the measure prohibits any person from knowingly using an RFID reader remotely to access, read, obtain, memorize, or store personal information encoded on or in an individual's identification device without the permission and prior consent of the authorized user and with the intent to defraud the authorized user, the issuer of the identification device, or a supplier or to use the information in furtherance of identity theft. Violations are punishable as a Class 1 misdemeanor.

6. Fiscal Impact Estimates: Indeterminate. See item 8.

7. Budget Amendment Necessary: No.

8. Fiscal Implications: The bill does not have a fiscal impact for the Department of Agriculture and Consumer Services.

Violators of the provisions of the bill shall be guilty of a Class 1 misdemeanor. Anyone convicted of a Class 1 misdemeanor is subject to a sentence of up to 12 months in jail. There is not enough information available to reliably estimate how many additional inmates in jail could result from this proposal. Any increase in jail population will increase costs to the state. The Commonwealth pays the localities \$8.00 a day for each misdemeanant or otherwise local responsible prisoner held in a jail. It also funds most of the jails' operating

costs, e.g. correctional officers. The state's share of these costs on a per prisoner, per day basis varies from locality to locality. However, according to the Compensation Board's most recent Jail Cost Report (November 2008), the estimated state support for local jails averaged \$28.77 per inmate, per day in FY 2007.

9. Specific Agency or Political Subdivisions Affected: Department of Agriculture and Consumer Services, judicial system.

10. Technical Amendment Necessary: No.

11. Other Comments: None.

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cc: Secretary of Agriculture and Consumer Services