

# Institute Warns of Rash RFID Laws

Think tank Progressive Policy Institute says that inaccurate scenarios of possible RFID abuses are prompting the introduction of premature legislation.

By Jonathan Collins

Oct. 11, 2004—The RFID industry must cooperate with the U.S. federal government to establish detailed guidelines on RFID deployment designed to protect consumer privacy or run the risk of facing legislation that will hamper use of the technology in the U.S., according to a new report issued by [Progressive Policy Institute](#) (PPI), a technology think tank based in Washington, D.C.

“The RFID industry has to realize that RFID is a political issue, and it will be treated as such,” says Robert Atkinson, who the report coauthor and PPI’s vice president and director of the organization’s Technology and New Economy Project. Formed in 2000, the project aims to educate federal, state, and local policy makers about technological advances, economic innovation, and entrepreneurship and to promote policies that encourage these things.

In the report, entitled *Radio Frequency Identification: Little Devices Making Big Waves*, the pro-technology organization warns that while RFID holds enormous potential to reduce costs and increase efficiencies for U.S. businesses, hypothetical scenarios of possible RFID abuses promoted by privacy groups are prompting the introduction of legislation to curtail the deployment of RFID before the technology has even been put into widespread use.

Privacy concerns revolve around the potential for RFID to track consumer purchases both in stores by retailers and out of stores by rogue RFID reads—the unauthorized reading and tracking of tags by anyone with an RFID reader. There are also concerns that purchase data will be recorded and linked to personal information. The report maintains that the vast bulk of the concerns are either impossible with current technology, are already restricted by existing legislation or are simply not in the interest of retailers to pursue.

“Privacy advocates are intentionally spinning a whole set of worst-case scenarios because the only way to stop technology deployment is to scare people before it is introduced,” says Atkinson. In the past, after a technology, like bar coding, has been introduced, consumer concerns quickly abate, he says.

At the same time, Atkinson says, that the RFID industry—both technology vendors and end users—have been slow to counteract privacy fears. “The industry has been somewhat late to the debate, and privacy advocates have so far done a good job of filling the vacuum with almost 100 percent distortion,” says Atkinson.

As a result, some states have taken steps to act on consumer privacy fears. The report notes that Utah has introduced a “Right to Know Act” seeking to preempt potential privacy violations through the use of RFID. Similar legislation has also been introduced in California (see [California RFID Legislation Rejected](#)) and Missouri (see [States Seek RFID Laws](#)). In addition, the “Opt Out of ID Chips Act” was introduced in the U.S. House of Representatives in June. The bill (HR 4673) would require that all consumer products containing an RFID transponder carry a label notifying consumers of the presence of such a transponder and that consumers have the option of having the transponder removed or disabled at the time of purchase. In July, the bill was

referred to the House of Representative's Subcommittee on Commerce, Trade and Consumer Protection. PPI believes it has little chance of being adopted.

While privacy concerns raised by consumer advocates and legislators relate to a scale of item-level in-store tagging that has yet to be introduced, the report maintains that if retailers voluntarily notified consumers when items bear RFID tags and gave consumers options for deactivating the tags, most privacy concerns would be eliminated.

PPI maintains that Congress should hold off enacting any RFID legislation. The think tank's rationale is that legislative action taken now would likely be aimed at preventing what are only perceived harms from RFID. Any laws passed before real harms are identified, therefore, would be premature. However, Congress should also be aware of action by state governments, so that through federal legislation, it can preempt any restrictive and conflicting RFID legislation at the state level.

State legislation, says Atkinson, would infringe on the benefits of deploying RFID for retailers and their customers. "If states start to regulate RFID use, companies such as Wal-Mart would face onerous demands to re-sort their shipments according to which state they are being delivered to," says Atkinson. The full text of PPI's report can be downloaded for free at the organization's Web site: [www.ppionline.org](http://www.ppionline.org).

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