

States Seek RFID Laws

State legislators in Utah and Missouri have sponsored bills that would require retailers to alert customers when goods contain RFID tags.

By Claire Swedberg

March 16, 2004—Several states are considering legislation to notify consumers if packages or products they are buying contain an RFID tag. Most recently, a bill that had passed the Utah House of Representatives expired before the Utah State Senate could vote on it. Currently, similar legislation is before the Missouri State Senate and is under review by a senate committee.

The Utah bill—known as the Radio Frequency Identification Right to Know Act (H.B. 251)—died in the senate after having been approved by the Utah Senate’s Business and Labor Committee and by Utah’s House of Representatives. Rep. David L. Hogue (R-District 52), who initially sponsored the bill, says time ran out after retailer associations demanded amendments to the bill. Retailers voiced concern about how the bill would limit their ability to use the tags for tracking and inventory. The bill reached the senate on Feb. 25 and expired on March 3.

The RFID Right to Know bill was intended to require all Utah retailers using RFID tags to notify customers of their presence. Hogue says the bill had the support it needed in the state senate, and he expects it to be reintroduced and under discussion again during summer interim study at the Utah House of Representatives.

Hogue said one amendment made to the bill on the house floor was particularly unpopular with the retail associations. That amendment would have required retailers to destroy the RFID tags at time of purchase unless they provide RFID disclosure. “We had a good healthy debate about that,” Hogue says.

“My initial concern was to alert the public that these things are there. The initial point is just to alert,” Hogue says. Although the tags are not yet in place in retail establishments, Hogue believes that the tags would have been in use at retail stores by the time legislation had gone into effect on May 5, 2005, had the bill been passed. “Right now there are no controls. Nothing’s in place to protect individuals’ right to privacy.”

The primary concern of Hogue and the bill’s supporters is that consumers will inadvertently release information about themselves for commercial use when making purchases of RFID-tagged products and that an RFID tag ID number could be linked by the retailer to buyer-related data, such as name, phone number and credit card number, without the buyer’s knowledge.

A similar bill, the RFID Right to Know Act of 2004 (S.B. 867) sponsored by State Sen. Maida Coleman (D-District 5), is before the Missouri State Senate. After a second reading on the senate floor in January, the proposed act has been referred to the senate’s Commerce and Environment Committee for review and recommendation. Like the Utah bill, Missouri’s SB 867 would mandate that any product containing an RFID tag have a label “in a conspicuous type-size and location and in print that contrasts with the background against which it appears.” The legislation requires the label to “state, at a minimum, that the consumer commodity or package contains or bears a radio frequency identification tag, and that the tag can transmit unique identification information to an independent reader both before and after purchase.”

In March, California State Sen. Debra Bowen introduced a bill to limit the use of RFID tags to track consumers (see [Bowen Seeks Balance in RFID Law](#)).

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