

REFERENCE TITLE: radio frequency identification

State of Arizona  
Senate  
Forty-eighth Legislature  
Second Regular Session  
2008

# SB 1397

Introduced by  
Senators Johnson: Blendu, Harper

AN ACT

AMENDING TITLE 44, ARIZONA REVISED STATUTES, BY ADDING CHAPTER 35; RELATING  
TO RADIO FREQUENCY IDENTIFICATION.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Title 44, Arizona Revised Statutes, is amended by adding  
3 chapter 35, to read:

4 CHAPTER 35

5 RADIO FREQUENCY IDENTIFICATION

6 ARTICLE 1. GENERAL PROVISIONS

7 44-7801. Definitions

8 IN THIS CHAPTER, UNLESS THE CONTEXT OTHERWISE REQUIRES:

9 1. "BUSINESS" MEANS A CORPORATION, PARTNERSHIP OR OTHER ENTITY THAT  
10 COLLECTS OR AGGREGATES AN INDIVIDUAL'S NONPUBLIC PERSONAL INFORMATION.

11 2. "NONPUBLIC PERSONAL INFORMATION" MEANS INFORMATION THAT A BUSINESS  
12 CAN USE TO IDENTIFY AN INDIVIDUAL, INCLUDING NAME, ADDRESS, SOCIAL SECURITY  
13 NUMBER AND FINANCIAL DATA.

14 3. "RADIO FREQUENCY IDENTIFICATION" MEANS TECHNOLOGIES THAT USE RADIO  
15 WAVES TO AUTOMATICALLY IDENTIFY INDIVIDUAL ITEMS.

16 4. "TAG" MEANS A MICROCHIP THAT IS ATTACHED TO AN ANTENNA AND THAT IS  
17 ABLE TO TRANSMIT IDENTIFICATION INFORMATION.

18 44-7802. Product labels; radio frequency identification tags

19 A. A CONSUMER COMMODITY, FOOD, DRUG, DEVICE, COSMETIC OR PACKAGE THAT  
20 CONTAINS OR BEARS A RADIO FREQUENCY IDENTIFICATION TAG SHALL BEAR A LABEL.  
21 AT A MINIMUM, THE LABEL SHALL STATE THAT THE ITEM CONTAINS OR BEARS A RADIO  
22 FREQUENCY IDENTIFICATION TAG AND THAT THE TAG CAN TRANSMIT UNIQUE  
23 IDENTIFICATION INFORMATION TO AN INDEPENDENT READER BOTH BEFORE AND AFTER  
24 PURCHASE. THE STATEMENT SHALL BE IN CONSPICUOUS TYPE, IN A PROMINENT  
25 LOCATION AND IN PRINT THAT CONTRASTS WITH THE BACKGROUND AGAINST WHICH IT  
26 APPEARS.

27 B. RETAILERS SHALL PLACE A THUMBNAILED-SIZED LOGO THAT STATES "EPC",  
28 STANDING FOR ELECTRONIC PRODUCT CODE, ON ALL RADIO FREQUENCY IDENTIFICATION  
29 TAGGED PACKAGING.

30 C. RETAILERS SHALL NOTIFY CONSUMERS THAT RADIO FREQUENCY  
31 IDENTIFICATION TAGS MAY BE REMOVED, DISCARDED OR DISABLED.

32 44-7803. Labeling requirement; alcoholic beverages

33 A PERSON SHALL NOT MANUFACTURE, IMPORT OR BOTTLE FOR SALE OR  
34 DISTRIBUTION IN THIS STATE ANY ALCOHOLIC BEVERAGE UNLESS ITS CONTAINER BEARS  
35 A LABEL STATING THAT THE CONTAINER CONTAINS OR BEARS A RADIO FREQUENCY  
36 IDENTIFICATION TAG AND THAT THE TAG CAN TRANSMIT UNIQUE IDENTIFICATION  
37 INFORMATION TO AN INDEPENDENT READER BOTH BEFORE AND AFTER PURCHASE. THE  
38 STATEMENT MUST BE IN CONSPICUOUS TYPE, IN A PROMINENT LOCATION AND IN PRINT  
39 THAT CONTRASTS WITH THE BACKGROUND AGAINST WHICH IT APPEARS.

40 44-7804. Labeling requirement; cigarettes

41 A PERSON SHALL NOT MANUFACTURE, IMPORT OR PACKAGE FOR SALE OR  
42 DISTRIBUTION IN THIS STATE ANY CIGARETTES UNLESS THEIR PACKAGE BEARS A LABEL  
43 STATING THAT THE PACKAGE CONTAINS OR BEARS A RADIO FREQUENCY IDENTIFICATION  
44 TAG AND THAT THE TAG CAN TRANSMIT UNIQUE IDENTIFICATION INFORMATION TO AN  
45 INDEPENDENT READER BOTH BEFORE AND AFTER PURCHASE. THE STATEMENT MUST BE IN

1 CONSPICUOUS TYPE, IN A PROMINENT LOCATION AND IN PRINT THAT CONTRASTS WITH  
2 THE BACKGROUND AGAINST WHICH IT APPEARS.

3 44-7805. Businesses; radio frequency identification tags;  
4 attorney general standards

5 A. A BUSINESS SHALL NOT COMBINE OR LINK AN INDIVIDUAL'S NONPUBLIC  
6 PERSONAL INFORMATION WITH A RADIO FREQUENCY IDENTIFICATION TAG BEYOND WHAT IS  
7 REQUIRED TO MANAGE INVENTORY.

8 B. A BUSINESS SHALL NOT DISCLOSE, DIRECTLY OR THROUGH AN AFFILIATE, TO  
9 A NONAFFILIATED THIRD PARTY AN INDIVIDUAL'S NONPUBLIC PERSONAL INFORMATION IN  
10 ASSOCIATION WITH A RADIO FREQUENCY IDENTIFICATION TAG.

11 C. A BUSINESS SHALL NOT USE, DIRECTLY OR THROUGH AN AFFILIATE OR  
12 NONAFFILIATED THIRD PARTY, A RADIO FREQUENCY IDENTIFICATION TAG TO IDENTIFY  
13 AN INDIVIDUAL.

14 D. THE ATTORNEY GENERAL SHALL ESTABLISH APPROPRIATE STANDARDS FOR  
15 BUSINESSES TO DO ALL OF THE FOLLOWING:

16 1. ENSURE THE INTEGRITY AND CONFIDENTIALITY OF AN INDIVIDUAL'S  
17 NONPUBLIC PERSONAL INFORMATION.

18 2. ENSURE THAT RADIO FREQUENCY IDENTIFICATION TAG RECORDS DO NOT  
19 IDENTIFY INDIVIDUALS.

20 3. PROTECT AGAINST ANTICIPATED THREATS OR HAZARDS TO THE SECURITY OF  
21 AN INDIVIDUAL'S NONPUBLIC PERSONAL INFORMATION.

22 4. PROTECT AN INDIVIDUAL AGAINST SUBSTANTIAL HARM OR INCONVENIENCE  
23 THAT MAY RESULT FROM UNAUTHORIZED ACCESS TO OR USE OF AN INDIVIDUAL'S  
24 NONPUBLIC PERSONAL INFORMATION.

25 44-7806. Attorney general; website; education

26 A. THE ATTORNEY GENERAL'S WEBSITE SHALL CONTAIN INFORMATION TO EDUCATE  
27 THE GENERAL PUBLIC ABOUT RADIO FREQUENCY IDENTIFICATION TECHNOLOGY. AT A  
28 MINIMUM, THE WEBSITE SHALL DESCRIBE RADIO FREQUENCY IDENTIFICATION TECHNOLOGY  
29 AND HOW COMPANIES, MARKETERS AND GOVERNMENT AGENCIES CAN USE RADIO FREQUENCY  
30 IDENTIFICATION TECHNOLOGY TO COLLECT AN INDIVIDUAL'S NONPUBLIC PERSONAL  
31 INFORMATION.

32 B. THE ATTORNEY GENERAL'S WEBSITE SHALL CONTAIN INFORMATION TO EDUCATE  
33 BUSINESSES ABOUT RADIO FREQUENCY IDENTIFICATION TECHNOLOGY AND THE IMPORTANCE  
34 OF PROTECTING AN INDIVIDUAL'S PRIVACY. THE WEBSITE SHALL DESCRIBE RADIO  
35 FREQUENCY IDENTIFICATION TECHNOLOGY, ADVOCATE PRIVACY PROTECTION AND EXPLAIN  
36 HOW BUSINESSES MUST CONFORM THEIR ACTIONS TO COMPLY WITH THIS CHAPTER.

37 44-7807. Implants in people; disclosure; written permission

38 BEFORE A PERSON MAY IMPLANT A RADIO FREQUENCY DEVICE INTO ANOTHER  
39 PERSON:

40 1. THE PERSON SHALL MAKE A FULL ORAL AND WRITTEN DISCLOSURE TO THE  
41 OTHER PERSON REGARDING THE HEALTH RISKS THAT MAY RESULT FROM THE IMPLANTATION  
42 OF THE DEVICE. IF THE OTHER PERSON IS A MINOR, DISCLOSURE MUST BE MADE TO  
43 THE MINOR'S PARENT OR LEGAL GUARDIAN.

1           2. THE PERSON SHALL OBTAIN WRITTEN PERMISSION FROM THE OTHER PERSON.  
2 IF THE OTHER PERSON IS A MINOR, THE WRITTEN PERMISSION MUST BE FROM THE  
3 MINOR'S PARENT OR LEGAL GUARDIAN.

4           44-7808. Attorney general; enforcement; civil penalty

5           EXCEPT AS PROVIDED IN SECTION 44-7809, THE ATTORNEY GENERAL SHALL  
6 ENFORCE THIS CHAPTER. THE ATTORNEY GENERAL MAY BRING AN ACTION TO OBTAIN  
7 ACTUAL DAMAGES FOR A WILFUL AND KNOWING VIOLATION OF THIS CHAPTER AND MAY  
8 IMPOSE A CIVIL PENALTY NOT TO EXCEED TEN THOUSAND DOLLARS PER VIOLATION OR  
9 SERIES OF VIOLATIONS OF A SIMILAR NATURE THAT ARE DISCOVERED IN A SINGLE  
10 INVESTIGATION.

11           44-7809. Private cause of action

12           A PERSON MAY BRING A PRIVATE CAUSE OF ACTION AGAINST ANOTHER PERSON FOR  
13 A VIOLATION OF THIS CHAPTER.