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FISCAL IMPACT REPORT

SPONSOR Stewart DATE TYPED 01/31/05 HB 215
 SHORT TITLE Removal of Radio Frequency ID Tags SB _____
 ANALYST Ford

APPROPRIATION

Appropriation Contained		Estimated Additional Impact		Recurring or Non-Rec	Fund Affected
FY05	FY06	FY05	FY06		
	Minimal			Recurring	General Fund

(Parenthesis () Indicate Expenditure Decreases)

SOURCES OF INFORMATION

LFC Files

SUMMARY

Synopsis of Bill

House Bill 215 enacts the Radio Frequency Identification Right Know Act, which prohibits certain uses of Radio Frequency Identification (RFID) Tags, requires notification to consumers regarding the use of such tags and provides for enforcement by the Attorney General and private individuals.

Significant Issues

Background on RFID: In November 2003, a coalition of privacy and civil liberties organizations issued a position paper on the use of RFID which provides helpful background on this technology:

“RFID tags are tiny computer chips connected to miniature antennae that can be affixed to physical objects. In the most commonly touted applications of RFID, the microchip contains an Electronic Product Code (EPC) with sufficient capacity to provide unique identifiers for all items produced worldwide. When an RFID reader emits a radio signal, tags in the vicinity respond by transmitting their stored data to the reader. With passive (battery-less) RFID tags, read-range can vary from less than an inch to 20-30 feet, while active (self-powered) tags can have a much longer read range. Typically, the data is sent to a distributed computing system involved in, perhaps, supply chain management or inventory control.”

The readers that scan the RFID tags are small enough to go unnoticed. For example, a consumer could have an active RFID tag in his shoe and could walk by a location where a reader has been

embedded into the floor. That reader could then scan the RFID tag in the shoe. The tag would then transmit information regarding the location and time, along with any personal information about the consumer that had been associated with that particular RFID tag.

Provisions of House Bill 215:

Removal of tags: House Bill 215 requires a business that offers items or packages containing RFID tags to remove or deactivate the tag at the point of purchase. The tag shall not be reactivated without the express consent of the consumer.

Collection of information: House Bill 215 prohibits a business from combining or linking a consumer's personal information with tag identification "beyond that required to manage inventory." Businesses are prohibited from disclosing a consumer's personal information in association with tag identification information.

Notification: This bill requires a business that collects or carries items containing RFID tags to conspicuously post a notice so informing consumers. The notice shall inform consumers of the possible presence of tags, as well as their rights under the law.

Businesses shall also be required to label each item or package that contains an RFID tag.

The measure also requires businesses that have gathered personal information through the tags to release, upon request from the consumer, all of the stored personal information.

Enforcement and penalties: House Bill 215 allows the Attorney General to investigate violations of the Act. It allows the Attorney General and individuals to bring actions for a violation of the Act and provides for injunctive relief, as well as the award of restitution and damages.

FISCAL IMPLICATIONS

There may be additional workload to the courts due to cases filed for violations of the Act. The Attorney General may have additional costs associated with investigating violations.

TECHNICAL ISSUES

House Bill 215 requires a business that collects personal information "through" the tags to disclose all of the personal information. However, the tags themselves do not gather personal or identifying information. Personal information is gathered through some other means and then associated to the tag. While the tag can transmit personal data, the only new data it can provide would be the time and location of the tag when it is scanned.

It may be necessary to clarify exactly when the consumer has the right to request information and what information must be disclosed. For example, if a business collects personal information about the consumer and associates it with a particular tag for the purpose of inventory management, but then it never collects further information "through" the tag by scanning it, does the consumer still have the right to see what information has been collected and associated with the tag?

EF/sb