
ASSEMBLY BILL NO. 264—ASSEMBLYMEN ANGLE AND HOLCOMB

MARCH 21, 2005

Referred to Committee on Commerce and Labor

SUMMARY—Requires notice to be provided to consumers of retail products which have radio frequency identification tags. (BDR 52-487)

FISCAL NOTE: Effect on Local Government: No.
Effect on the State: No.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to trade practices; requiring notice to be provided to consumers of retail products which have radio frequency identification tags; establishing certain labeling requirements for such products; making certain acts deceptive trade practices; providing civil and administrative penalties; and providing other matters properly relating thereto.

Legislative Counsel's Digest:

Existing law establishes certain activities as deceptive trade practices. (NRS 598.100-598.990) Activities that are established as deceptive trade practices are prohibited and civil and criminal penalties are imposed upon a person who engages in any such activity. (NRS 598.0999)

This bill creates a new deceptive trade practice which applies to a person who produces, manufactures, packages, distributes or sells a retail product that has a radio frequency identification tag. This tag uses radio waves or other wireless technology to transmit a unique electronic product code and is used for keeping inventory. This bill requires that all retail products and their packages that have such a tag bear a label notifying the consumer of the existence of the tag and provides minimum requirements for such a label. This bill also prohibits a retailer who knows or should know that a product contains a tag from selling the product without a label.

A person who violates this new deceptive trade practice is subject to the civil and administrative penalties imposed for engaging in deceptive trade practices. No criminal penalties apply to this deceptive trade practice.



THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Chapter 598 of NRS is hereby amended by adding thereto the provisions set forth as sections 2 to 10, inclusive, of this act.

Sec. 2. *As used in sections 2 to 10, inclusive, of this act, unless the context otherwise requires, the words and terms defined in sections 3 to 8, inclusive, of this act have the meanings ascribed to them in those sections.*

Sec. 3. *“Consumer” means a person who purchases a retail product from a retailer.*

Sec. 4. *“Package” means any type of container, article or item that is used to pack, contain or hold a retail product in the form in which the retail product is sold to consumers. The term includes, without limitation, a box, bag, bottle, can or jar.*

Sec. 5. *“Radio frequency identification tag” means a device that:*

1. Is attached to, embedded in or made part of a retail product or its package; and

2. Uses radio waves or other wireless technology to transmit a unique electronic product code.

Sec. 6. *“Retail product” means any type of product, good or commodity that is intended to be sold at retail.*

Sec. 7. *“Retailer” means a person who is engaged in the business of selling retail products directly to consumers.*

Sec. 8. *“Unique electronic product code” means a number or identifier that:*

1. Uniquely identifies an individual retail product;

2. Is stored and transmitted electronically; and

3. Is used for the control and management of inventories of retail products.

Sec. 9. 1. *If a person produces, manufactures, packages, distributes or sells a retail product and the person has caused a radio frequency identification tag to be attached to, embedded in or made part of the retail product or its package, the person shall ensure that the retail product or its package bears a label which notifies consumers of the existence of the radio frequency identification tag.*

2. *If a retailer knows or reasonably should know that a retail product or its package has a radio frequency identification tag, the retailer shall not sell the retail product to a consumer unless the retail product or its package bears the label required pursuant to this section.*



1 3. The label required pursuant to this section must, at a
2 minimum:

3 (a) Inform the consumer that the retail product or its package
4 has a radio frequency identification tag which can transmit
5 unique identification information before and after purchase of the
6 retail product;

7 (b) Be in a conspicuous location on the retail product or its
8 package; and

9 (c) Be printed in a size of type and in a manner that is
10 conspicuous and contrasts with the background on which the
11 notice appears.

12 **Sec. 10. 1. The remedies, duties and prohibitions set forth**
13 **in sections 2 to 10, inclusive, of this act are not exclusive and are**
14 **in addition to any other remedies, duties and prohibitions provided**
15 **by law.**

16 2. Any violation of sections 2 to 10, inclusive, of this act
17 constitutes a deceptive trade practice for the purposes of the civil
18 and administrative remedies and penalties set forth in NRS
19 598.0903 to 598.0999, inclusive.



