

Intro. Res. No. 1266-2011  
Introduced by Legislators Browning, Schneiderman, and Anker

Laid on Table 3/22/2011

**RESOLUTION NO. 520 -2011, ADOPTING LOCAL LAW  
NO. -2011, A LOCAL LAW TO REGISTER PREPAID CELL  
PHONES PURCHASED IN SUFFOLK COUNTY**

**WHEREAS**, there was duly presented and introduced to this County Legislature at a meeting held on March 22, 2011, a proposed local law entitled, "**A LOCAL LAW TO REGISTER PREPAID CELL PHONES PURCHASED IN SUFFOLK COUNTY**"; now, therefore be it

**RESOLVED**, that said local law be enacted in form as follows:

**LOCAL LAW NO. -2011, SUFFOLK COUNTY, NEW YORK**

**A LOCAL LAW TO REGISTER PREPAID CELL PHONES  
PURCHASED IN SUFFOLK COUNTY**

**BE IT ENACTED BY THE COUNTY LEGISLATURE OF THE COUNTY OF  
SUFFOLK**, as follows:

**Section 1. Legislative Intent.**

This Legislature hereby finds and determines that crime and terrorism are constant threats to the nation and Suffolk County.

This Legislature determines that customers must provide identifying information in order to purchase a cellular phone with a service contract.

This Legislature also finds and determines that prepaid cellular phones allow people to obtain a mobile phone with a set number of minutes at a low cost with no contract; these same features make prepaid cellular phones attractive to terrorists and criminals.

This Legislature finds that a person can purchase a prepaid cellular phone without providing personal information or identification.

This Legislature determines that in the absence of identifying information from the purchaser, there is no way to trace a prepaid cellular phone to any individual.

This Legislature also finds that requiring retailers to collect identifying information at the time a prepaid cellular phone is sold will provide law enforcement with essential information to combat crime and terrorism.

Therefore, the purpose of this law is to require all retailers of prepaid cellular phones in Suffolk County to collect and retain identifying information from the customer each time a prepaid cellular phone is sold.

**Section 2. Definitions.**

As used in this law, the following terms shall have the meanings indicated:

“LAW ENFORCEMENT OFFICER” shall mean the Commissioner of the Suffolk County Police Department, his or her designee, the Suffolk County Sheriff, his or her designee, the Chief of any Town or Village Police Department within the County of Suffolk, his or her designee, any sworn officer of such police departments, any sworn officer of the Suffolk County Sheriff’s Office, the Suffolk County District Attorney, his or her designee, or investigators of the Suffolk County District Attorney’s Office.

“PERSON” shall mean any natural person, individual, corporation, unincorporated association, proprietorship, firm, partnership, joint venture, joint stock association, or other entity or business of any kind.

“PREPAID CELLULAR PHONE” shall mean any cellular phone that is purchased with a pre-set number of minutes and does not require a long term contract with any cellular phone service provider.

“PREPAID CELLULAR PHONE RETAILER” shall mean any retail store, company or corporation located in Suffolk County which sells prepaid cellular phones.

“SERVICE SUPPLIER” shall mean the company providing wireless telephone services to a prepaid cellular phone.

“SIM CARD” shall mean a subscriber identity module card used in a cellular phone.

### **Section 3. Establishment of Prepaid Cellular Phone Database.**

A secure online database is hereby established to contain identifying information of persons who purchase prepaid cellular phones or SIM cards in the County of Suffolk. The database shall be accessible only by law enforcement officers. The Department of Information Technology shall be responsible for the development and maintenance of the online database.

### **Section 4. Requirements.**

A prepaid cellular phone retailer must obtain two forms of identification from any person purchasing a prepaid cellular phone or a SIM card for a prepaid cellular phone. One form of identification must be a government-issued photographic identification. The second form of identification must contain the person’s name and home address. Acceptable secondary forms of identification include, but are not limited to: motor vehicle registration or insurance cards, utility bills, pay stubs, and voter registration cards.

### **Section 5. Record of Sale.**

A. A prepaid cellular phone retailer shall create a record of each sale made. The following information must be contained in each record:

- (1) The date of sale;
- (2) A copy of the forms of identification provided by the person or the identification number of the photographic government identification provided by the person;

- (3) The make, model, and the electronic serial number or SIM card number of the prepaid cellular phone;
  - (4) The phone number assigned to the prepaid cellular phone, if activated at the time of sale by the prepaid cellular phone retailer; and
  - (5) The service supplier of the prepaid cellular phone purchased.
- B. Records may be created and maintained by the prepaid cellular phone retailer either on the premises of the prepaid cellular phone retailer or in the prepaid cellular phone database established in Section 3 of this law.
- (1) Prepaid cellular phone retailers who elect to maintain their records in the prepaid cellular phone database shall have an affirmative duty to input all required information for each individual sale of a prepaid cellular phone or SIM card in a timely manner, but no less than weekly. Prepaid cellular phone retailers using the database shall destroy all hard copies of records created in compliance with this law 30 days after receiving confirmation that the information contained therein has been received by the County of Suffolk.
  - (2) Prepaid cellular phone retailers who elect to maintain their records on premises may store such records either on paper or in electronic form. All records maintained by the prepaid cellular phone retailer on premises shall be stored in receipt number order in good and legible condition for no less than three years from the date of sale.
- C. Any prepaid cellular phone retailer maintaining records of sale for prepaid cellular phones shall take all necessary steps to secure the information provided by purchasers and prevent theft of any personal information or identity.
- D. Any examination of records of sale by a law enforcement officer shall be performed in a manner consistent with their department's procedures for accessing personal information.

#### **Section 6. Notification.**

- A. All prepaid cellular phone retailers shall notify the Suffolk County Police Department, in writing, within thirty days of opening for business or the effective date of this law, whichever is later, that prepaid cellular phones or SIM cards for prepaid cellular phones are available for purchase at their establishment.
- B. All prepaid cellular phone retailers shall notify the Suffolk County Police Department, in writing, within thirty days of opening for business or the effective date of this law, whichever is later, identifying which record system established in Section 5(B) of this law they will be using. Prepaid cellular phone retailers shall also notify the Suffolk County Police Department if they change from one record system to another within thirty days of making such change.

**Section 7. Inspection of Records Maintained On Premises.**

- A. Any prepaid cellular phone retailer who elects to maintain their records on premises shall make said records open for inspection by a law enforcement officer pursuant to a duly authorized subpoena at any time.
- B. A law enforcement officer may request, pursuant to a duly authorized subpoena, and a prepaid cellular phone retailer shall satisfy such request within 72 hours, copies of all purchase receipts and/or comparable documents detailing all prepaid cellular phone and SIM cards for prepaid cellular phone purchases made by one specific person for a time frame of no more than 90 days.
- C. Should a law enforcement officer request information for all purchases made by one specific person for a time frame greater than 90 days, then the prepaid cellular phone retailer shall have an additional 72 hours to comply with the request.

**Section 8. Prohibitions.**

Prepaid cellular phone retailers shall not provide any information collected in furtherance of this law to any person or entity other than an authorized law enforcement officer.

**Section 9. Penalties.**

Violation of any section of this law shall constitute an unclassified misdemeanor punishable by a fine not to exceed one thousand dollars (\$1,000.00) and/or up to one (1) year in jail. Each sale in violation of this law shall constitute a separate and distinct violation.

**Section 10. Applicability.**

This law shall apply to all sales of prepaid cellular phones and SIM cards for prepaid cellular phones occurring on or after the effective date of this law.

**Section 11. Severability.**

If any clause, sentence, paragraph, subdivision, section, or part of this law or the application thereof to any person, individual, corporation, firm, partnership, entity, or circumstance shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional, such order or judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part of this law, or in its application to the person, individual, corporation, firm, partnership, entity, or circumstance directly involved in the controversy in which such order or judgment shall be rendered.

**Section 12. Reverse Preemption.**

This law shall be null and void on the same day that statewide legislation goes into effect, incorporating either the same or substantially similar provisions as are contained in this Article, or in the event that a pertinent state administrative agency issues and promulgates regulations preempting such action by the County of Suffolk. The County Legislature may determine, via mere resolution, whether or not identical or substantially similar statewide legislation has been enacted for the purposes of triggering the provisions of this section.

**Section 13. SEQRA Determination.**

This Legislature, being the State Environmental Quality Review Act (SEQRA) lead agency, hereby finds and determines that this law constitutes a Type II action pursuant to Section 617.5(c)(20), (21), and/or (27) of Title 6 of the NEW YORK CODE OF RULES AND REGULATIONS (6 NYCRR) and within the meaning of Section 8-0109(2) of the NEW YORK ENVIRONMENTAL CONSERVATION LAW as a promulgation of regulations, rules, policies, procedures, and legislative decisions in connection with continuing agency administration, management and information collection. The Suffolk County Council on Environmental Quality (CEQ) is hereby directed to circulate any appropriate SEQRA notices of determination of non-applicability or non-significance in accordance with this law.

**Section 14. Effective Date.**

This law shall take effect on the two hundred seventieth (270<sup>th</sup>) day following its filing in the Office of the Secretary of State.

DATED: June 21, 2011 \*\*NOT ADOPTED\*\*

SUFFOLK COUNTY  
County Legislature  
RIVERHEAD, NY



*This is to Certify That I, TIM LAUBE, Clerk of the County Legislature of the County of Suffolk, have compared the foregoing copy of resolution with the original resolution now on file in this office, and which was duly adopted by the County Legislature of said County on June 21, 2011 and that the same is a true and correct transcript of said resolution and of the whole thereof.*

*In Witness Whereof, I have hereunto set my hand and the official seal of the County Legislature of the County of Suffolk.*

*Tim Laube*

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Clerk of the Legislature

Intro. Res.

1266

Res. No.

520

June 21, 2011

**Motion:**

Romaine, Schneiderman, Browning, Muratore, Anker  
Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,  
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

**Co-Sponsors:**

Romaine, Schneiderman, Browning, Muratore, Anker  
Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,  
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

**Second:**

Romaine, Schneiderman, Browning, Muratore, Anker  
Eddington, Montano, Cilmi, Lindsay, Vilorio-Fisher, Barraga,  
Kennedy, Nowick, Horsley, Gregory, Stern, D'Amaro, Cooper

LD	Legislator	Yes	No	Abs	NP	R
1	Edward P. ROMAINE	/	/			
2	Jay H. SCHNEIDERMAN	/	/			
3	Kate M. BROWNING	/	/			
4	Thomas MURATORE	/	/			
6	Sarah S. ANKER	/	/			
7	Jack EDDINGTON	/	/			
9	Ricardo MONTANO	/	/			
10	Thomas CILMI	/	/			
11	Thomas F. BARRAGA	/	/			
12	John M. KENNEDY, JR.	/	/			
13	Lynne C. NOWICK	/	/			
14	Wayne R. HORSLEY	/	/			
15	DuWayne GREGORY	/	/			
16	Steven H. STERN	/	/			
17	Lou D'AMARO	/	/			
18	Jon COOPER	/	/			
5	Vivian VILORIA-FISHER, D.P.O.	/	/			
8	William J. LINDSAY, P.O.	/	/			
	Totals	7	11			

**MOTION**

Approve

Table: \_\_\_\_\_

Send To Committee

Table Subject To Call

Lay On The Table

Discharge

Take Out of Order

Reconsider

Waive Rule \_\_\_\_\_

Override Veto

Close

Recess

APPROVED \_\_\_\_\_ FAILED

No Motion \_\_\_\_\_ No Second \_\_\_\_\_

**RESOLUTION DECLARED**

ADOPTED

NOT ADOPTED

*Tim Laube*

Roll Call  Voice Vote \_\_\_\_\_