

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S158

SPONSOR: KRUEGER

TITLE OF BILL:

An act to amend the general business law, in relation to privacy standards for electronic health products and services and permissible data brokering

PURPOSE OR GENERAL IDEA OF BILL:

This bill would govern companies that collect and sell healthcare information, and provides additional rights and protections to users related to the sale and of their private health information.

SUMMARY OF SPECIFIC PROVISIONS:

Section one creates a new article to the General Business Law to govern the collection of data for electronic health products and services.

Section 1100 creates various definitions that will be used in the rest of the bill.

Section 1101 makes it unlawful for a covered organization to engage in data processing, geofencing or data brokering without meeting specific thresholds related to a need for the data and consent from the user.

Section 1102 creates a private right of action for users that have been injured a result of a violation of this article.

Section 1103 excludes any actions that are HIPAA compliant from being governed by this article.

Section 2. Severability

Section 3. Effective Date

JUSTIFICATION:

Most residents of the State are under the impression that HIPAA protects them and their health data from being accessed by third-parties and sold by and to other organizations. Residents are generally unaware that their technology is constantly tracking their movements, and geolocation data is being sold to companies for the purposes of targeted advertisements or tracking. Most users also do not have an understanding of how much information is being collected, stored, and sold for the benefit of third-parties. For example, a mobile app to track menstruation cycles

was recently caught selling users' data to antiabortion advocacy organizations.

This bill creates a legal framework for residents to reclaim and retain control of their healthcare information. Electronic apps or websites that are designed to provide a diagnosis or retain health information will be required to receive affirmative consent by the user to retain such information and would need separate consent to sell such information to third-parties.

The legislation also bans the practice of using geolocation at health-care facilities to target advertisements to individuals. Many companies offering healthcare products, treatments, or alternatives currently use geofencing at healthcare facilities to identify potential customers for their products, and send targeted advertisements to users while they are at the health facility or shortly their departure.

PRIOR LEGISLATIVE HISTORY:

2022: S.9599 - Referred to Rules

FISCAL IMPLICATIONS:

None to the State.

EFFECTIVE DATE:

This act shall take effect on the sixtieth day after it shall have become law.