

# HOUSE BILL 1401

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By: **Delegates Ali and Smigiel**

Introduced and read first time: February 8, 2008

Assigned to: Economic Matters

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## A BILL ENTITLED

1 AN ACT concerning

2 **Radio Frequency Identification (RFID) Chip Implantation Prevention Act**

3 FOR the purpose of providing that an employer may not require, coerce, or compel an  
4 employee to undergo the subcutaneous implantation of an RFID chip; defining  
5 certain terms; providing certain civil penalties; authorizing the Attorney  
6 General to bring certain civil actions; providing a civil cause of action for an  
7 employee who is required, coerced, or compelled to undergo the subcutaneous  
8 implantation of an RFID chip; authorizing the recovery of certain damages and  
9 costs; and generally relating to prohibiting the implantation of certain devices  
10 in employees under certain circumstances.

11 BY adding to

12 Article – Courts and Judicial Proceedings

13 Section 3–1801

14 Annotated Code of Maryland

15 (2006 Replacement Volume and 2007 Supplement)

16 Preamble

17 WHEREAS, Radio–Frequency Identification (RFID) is a generic term for  
18 technologies most commonly found in small electronic devices that consist of a  
19 microchip and an antenna; and

20 WHEREAS, RFID devices, which are easily embedded into a variety of animate  
21 and inanimate hosts, use radio waves to automatically identify people or objects and  
22 transmit information about them to RFID readers; and

23 WHEREAS, RFID, while most commonly employed in payment systems,  
24 security systems, and inventory tracking, has also been employed in humans via chips  
25 that can be implanted underneath the skin; and

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.



1 WHEREAS, A Florida-based corporation has sold about 7,000 RFID chips,  
2 approximately 2,000 of which have been implanted in humans for medical, security,  
3 and commercial purposes, has offered to implant roughly 500 patients of a  
4 Baltimore-based nonprofit organization that operates eight dialysis centers in  
5 Maryland, and provides free RFID readers to about 25 emergency departments in  
6 Maryland; and

7 WHEREAS, News reports that RFID implants are being required for some  
8 employees, that RFID implants may cause cancer in laboratory animals, that the  
9 Department of Defense is funding a study for the development of RFID implants for  
10 battlefield casualties, and that RFID implants are being considered for those who have  
11 Alzheimer's and other diseases, have raised concerns among many citizens about  
12 security, safety, privacy, and bodily integrity; and

13 WHEREAS, Several states have either passed or considered legislation to study,  
14 prohibit, or regulate RFID implants in humans; now, therefore,

15 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF  
16 MARYLAND, That the Laws of Maryland read as follows:

17 **Article – Courts and Judicial Proceedings**

18 **3-1801.**

19 (A) (1) IN THIS SECTION THE FOLLOWING WORDS HAVE THE  
20 MEANINGS INDICATED.

21 (2) “RFID CHIP” INCLUDES ANY DEVICE THAT EMPLOYS A CHIP  
22 THAT MAY TRANSMIT INFORMATION.

23 (3) “REQUIRE, COERCE, OR COMPEL” INCLUDES:

24 (I) THE USE OF PHYSICAL VIOLENCE;

25 (II) THE USE OF A THREAT;

26 (III) THE USE OF INTIMIDATION;

27 (IV) THE USE OF RETALIATION;

28 (V) THE CONDITIONING OF ANY BENEFIT ON CONSENT TO  
29 IMPLANTATION OF AN IDENTIFICATION DEVICE; AND

30 (VI) ANY MEANS THAT WOULD CAUSE A REASONABLE  
31 INDIVIDUAL OF ORDINARY SENSIBILITIES TO ACQUIESCE TO IMPLANTATION  
32 WHEN THAT INDIVIDUAL OTHERWISE WOULD NOT.

1           **(B) AN EMPLOYER MAY NOT REQUIRE, COERCE, OR COMPEL AN**  
2 **EMPLOYEE TO UNDERGO THE SUBCUTANEOUS IMPLANTATION OF AN RFID**  
3 **CHIP.**

4           **(C) (1) AN EMPLOYEE WHO IS REQUIRED, COERCED, OR COMPELLED**  
5 **TO UNDERGO THE SUBCUTANEOUS IMPLANTATION OF AN RFID CHIP HAS A**  
6 **CIVIL CAUSE OF ACTION AGAINST THE EMPLOYER THAT REQUIRED, COERCED,**  
7 **OR COMPELLED THE EMPLOYEE TO UNDERGO THE SUBCUTANEOUS**  
8 **IMPLANTATION.**

9           **(2) IN AN ACTION UNDER THIS SUBSECTION, THE COURT MAY**  
10 **AWARD THE EMPLOYEE WHO FILED THE COMPLAINT ACTUAL DAMAGES,**  
11 **PUNITIVE DAMAGES, INJUNCTIVE RELIEF, REASONABLE ATTORNEY'S FEES, AND**  
12 **OTHER REASONABLY INCURRED LITIGATION COSTS.**

13           **(D) (1) THE ATTORNEY GENERAL MAY INSTITUTE A CIVIL ACTION**  
14 **AGAINST AN EMPLOYER WHO VIOLATES THIS SECTION TO RECOVER A CIVIL**  
15 **PENALTY NOT EXCEEDING \$10,000 FOR EACH DAY AN IMPLANT IN VIOLATION**  
16 **OF THIS SECTION REMAINS IN PLACE.**

17           **(2) THE ATTORNEY GENERAL MAY SEEK AN INJUNCTION IN A**  
18 **CIVIL ACTION TO PROHIBIT AN EMPLOYER THAT HAS ENGAGED IN A VIOLATION**  
19 **OF THIS SECTION FROM ENGAGING IN FURTHER VIOLATIONS.**

20           **(E) THIS SECTION DOES NOT AFFECT ANY RIGHT OR REMEDY**  
21 **OTHERWISE PROVIDED BY LAW.**

22           SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
23 October 1, 2008.