

Memorandum in Support – The New York Electronic Communications Privacy Act

IN SUPPORT OF: A.09235 (Dinowitz)

DATE: March 29, 2016

SUBJECT: Relates to creating the New York electronic communications privacy act; relates to the search and seizure of electronic devices and electronic communications.

The New York Technology Council, Inc. (NYTECH) is writing to strongly support A. 09235, the New York Electronic Communications Privacy Act (NY ECPA).

NYTECH is a six-year-old non-profit industry association that supports the tech industry in New York. Our members range from individual consultants to some several of America's largest tech companies.

While technology has advanced rapidly, state and federal privacy laws remain largely unchanged. As a result, there is a lack of clarity about when and how the government can gain access digital data and what type of oversight is necessary. Public confidence in technology has been damaged by this lack of clarity. Polls consistently show that an overwhelming majority of Americans believe their email messages, text messages, and location information are sensitive, and disapprove of government monitoring and collection of this digital data. People should not have to choose between new technology and services or keeping their personal and digital lives private. It is important that constitutional protections of physical contents extend to digital data that reveals who we are, where we go, who we know, and what we do.

A. 09235 will modernize New York's privacy laws by providing, stronger and more balanced protections of digital information. The bill requires law enforcement to obtain a warrant before physically or electronically accessing digital data. It also includes reasonable transparency, enforcement and oversight measures that allow law enforcement to access effective investigatory tools, and protect the public's privacy rights, whether in cyberspace or physical-space.

NYTECH urges the New York State Legislature to pass the New York Electronic Communications Privacy Act, A. 09235, so that New York's privacy laws reflect our modern digital age.