

# ANNUAL REPORT 2021



CARL E. HEASTIE, SPEAKER  
NILY ROZIC, CHAIR

**NEW YORK STATE ASSEMBLY**

**COMMITTEE ON CONSUMER AFFAIRS & PROTECTION**

**CHAIR**

Consumer Affairs and Protection

**COMMITTEES**

Corporations, Authorities, and Commissions  
Correction  
Labor  
Ways and Means

**CAUCUSES**

Black, Puerto Rican, Hispanic, and  
Asian Legislative Caucus  
Women's Legislative Caucus  
Puerto Rican / Hispanic Task Force  
Task Force on Women's Issues  
Asian Pacific American Task Force



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Honorable Carl Heastie  
Speaker of the Assembly  
State Capitol, Room 349  
Albany, New York 12248

December 15, 2021

Dear Speaker Heastie:

It is my pleasure to submit the 2021 Annual Report of the Assembly Standing Committee on Consumer Affairs and Protection.

The work accomplished during this year's legislative session reflects the Committee's dedication to and concern for consumers' rights. This year, the Committee advanced legislation addressing a wide range of consumer issues. Several of these pieces of legislation include bills regulating telemarketing practices and robocalls, child product safety, mandatory arbitration agreements, and financial service products.

During the upcoming legislative year, the Committee plans to build upon these protections by continuing to engage consumers, advocates, government agencies, and businesses as we explore innovative and effective ways to address the consumer issues facing all New Yorkers.

I would like to take this opportunity to thank the Committee members for their contributions to this past year's achievements. I would also like to express my appreciation for the assistance that the Committee received from the Committee staff in the course of our work. Finally, Mr. Speaker, I commend you for your continued leadership and support of our legislative initiatives to better protect New York consumers.

Sincerely,

A handwritten signature in black ink that reads 'Nily Rozic'. The signature is written in a cursive, flowing style.

Nily Rozic, Chair

**2021 ANNUAL REPORT**  
**OF THE**  
**NEW YORK STATE ASSEMBLY**  
**STANDING COMMITTEE ON CONSUMER AFFAIRS AND PROTECTION**

**Nily Rozic, CHAIR**

**MAJORITY**

Peter J. Abbate, Jr.  
Kenny Burgos  
Charles Fall  
Pharra Souffrant Forrest  
Emily Gallagher  
Yuh-Line Niou  
Stacey Pheffer Amato  
Dan Quart  
Jenifer Rajkumar  
Jo Anne Simon  
Jaime Williams

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Minority Member*)  
Jodi Giglio  
David G. McDonough  
Brian Miller

**COMMITTEE STAFF**

Aaron Suggs, Assistant Secretary for Program and Policy  
Daniel Gordon, Analyst  
Nathan Kerstein, Associate Counsel  
Hudy Rosenberg, Committee Clerk  
Dawn Fowler, Program and Counsel Secretary

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## **I. COMMITTEE RESPONSIBILITIES AND GOALS**

The Assembly Consumer Affairs and Protection Committee (the “Committee”) is responsible for developing legislation to protect consumers’ rights and ensure the public’s ability to make informed choices in the marketplace. Generally, the Committee has jurisdiction over legislation that amends certain sections of the General Business Law, Personal Property Law, parts of the Agriculture and Markets Law and Education Law. The broad interests of the Committee reflect the fact that today’s consumers can be victims of fraud, misinformation, or lack of information that is vital to their health, safety, and welfare in many facets of life.

To protect consumers’ rights and help them to make informed choices, the Committee works with consumer groups and state and federal agencies. At the state level, these agencies include the Department of State; the Department of Law; the Department of Financial Services; the Department of Education; the Department of Environmental Conservation; the Department of Health; and the Department of Agriculture and Markets. The federal government agencies with which the Committee works include the Federal Trade Commission (FTC); the Consumer Financial Protection Bureau (CFPB); the Food and Drug Administration (FDA); the Federal Communications Commission (FCC); the Consumer Product Safety Commission (CPSC); and the National Highway Traffic Safety Administration (NHTSA). The Committee also works with local agencies, such as the New York City Department of Consumer Affairs, local consumer affairs offices, numerous Better Business Bureaus, and bar associations throughout the State.

In addition, the Committee works to help consumers through the development of legislation under the jurisdiction of other Assembly standing committees. Such committees include the Committees on Banks; Transportation; Corporations, Authorities, and Commissions; Economic Development, Job Creation, Commerce and Industry; Agriculture; and Insurance.

## II. 2021 COMMITTEE ACCOMPLISHMENTS

### **Raising the Fine for Violations of the Do Not Call Registry (A.83, Quart)**

The Do Not Call Registry in the General Business Law has long been a tool used to help protect consumers from receiving an influx of unwanted telemarketing sales calls. However, since the fine amount had not been updated since 2004, it was no longer as strong of a deterrent as it should be for companies to prevent them from violating the provisions of this section. This bill increases the maximum fine from \$11,000 to \$20,000 in order to further discourage companies from violating the Do Not Call Registry laws of New York State. **(Passed the Assembly)**

### **Prohibiting the Sale of Infant Inclined Sleepers (A.256, Paulin)**

According to the Washington Post and Consumer Reports, as of October of 2019, at least 59 infant deaths have been linked to the use of infant inclined sleepers. Fisher Price and Kids II recalled all of their incline sleepers after the Consumer Product Safety Commission and the American Academy of Pediatrics issued safety warnings about these products. This bill prohibits the sale of these products in New York State, and restricts the use of them in certain settings such as child care facilities in order to prevent any more of these deaths from happening. **(Passed the Assembly)**

### **Allowing Telecommunication Companies to Block Certain Telephone Numbers (A.268-A, Paulin)**

In November of 2017, the FCC released a rule to allow phone service providers to proactively block robocalls originating from certain numbers. As part of the Committee's continued efforts to combat telemarketing and robocalls, this legislation mirrors the provisions in the FCC rule and would require telecommunication providers to block calls coming from numbers that are not valid North American numbering plan numbers, numbers that are valid but are not allocated to a provider, and valid numbers allocated to a provider but are unused. This bill is another step towards helping New Yorkers deal with the increased number of robocalls that they receive on a daily basis. **(Chapter 582 of the Laws of 2021)**

### **Prohibiting the Sale of Whipped Cream Chargers to Persons Under the Age of 21 (A.754-A, Pheffer Amato)**

While whipped cream chargers have some legitimate uses, they have also been used as a harmful inhalant that can be very dangerous. The nitrous oxide used in the whipped cream chargers can be addictive and can cause hearing loss, liver and kidney damage, limb spasms, central nervous system or brain damage, bone marrow damage, heart failure or suffocation. This law seeks to prevent this type of use by prohibiting the sale of whipped cream chargers to persons under the age of 21. If fewer people under the age of 21 have access to these chargers, hopefully the number of injuries or deaths from the use of these chargers will decrease dramatically. **(Chapter 515 of the Laws of 2021)**

### **Expiration Dates on Prepaid Cellular Telephone Cards (A.981, Dilan)**

Current law requires expiration dates to be printed on prepaid telephone cards; however, there is no requirement on the type or size of font that must be used. Often the expiration date is hard to

find because of small print location.

This chapter amendment to Chapter 334 of 2020 requires the expiration date to be printed on the face of the card, in at least size 14 font and expands the expiration date to include an expiration policy in cases where a card does not have a specific expiration date. These requirements will help consumers to better know when one of these prepaid cards are expiring so that they don't lose out on any minutes that they have purchased. **(Chapter 18 of the Laws of 2021)**

### **Personal Information of a Credit or Debit Card Holder (A.1370, Seawright)**

In the case of *Pineda v. Williams Sonoma*, the Court decided that the definition of personal information includes a zip-code, meaning that during retail transactions retailers cannot ask a consumer for their zip-code to complete the transaction. This bill would clarify and expand the existing prohibition on collecting a credit/debit card user's personal information that exists in §520-a of the General Business Law in order to conform to the recent decision. This bill further protects consumers from having to give away more personal information to retailers when buying a product with a credit or debit card. **(Passed the Assembly)**

### **Disclosure of Mandatory Arbitration Clauses in Certain Consumer Contracts (A.1450, Dinowitz)**

In many consumer contracts, consumers are forced to resolve disputes via arbitration, and in many cases, consumers are unaware that the contract they are signing requires them to resolve disputes through arbitration, and not through the court system. Studies have shown that arbiters tend to disproportionately rule in favor of businesses over the consumer and in some cases private arbitration companies have a financial incentive to rule in favor of the business that is paying for their services. It is very important for consumers to understand when they are signing a contract that contains a mandatory arbitration clause.

This bill would require that when a contract containing a mandatory arbitration clause is presented to a consumer either in person, through the mail, or electronically that the representative of the company supervising the execution of the contract disclose to the consumer that the contract contains a mandatory arbitration clause, along with an explanation of what a mandatory clause is. This legislation will help consumers fully understand what they are agreeing to when signing a consumer contract. **(Passed the Assembly)**

### **Designation of New Automobile Broker Businesses (A.1932-B, Carroll)**

The increased demand for automobile broker's services by New Yorkers has led to increased attention on the business practices by automobile brokers in this state. The committee wants to ensure that automobile brokers' business practices are not in any way harmful to consumers that are using these services.

This bill requires registration of new automotive broker businesses while enacting various provisions relating to conduct of such businesses and defining certain acts as deceptive. In addition, this bill will strengthen the broker registration process, increase disclosures, penalties, and enforcement provisions. **(Passed the Assembly)**

## **Disclosure of Insurance by Contractors and Sub-Contractors (A.2202, Barnwell)**

Before people suffer damage to their property due to the work of a contractor or sub-contractor, they have the right to know if and what type of insurance a contractor is covered by in the event that any work performed on their home results in damage. Often contractors and sub-contractors do not provide their property and/or casualty insurance information or misrepresent the level of insurance they have to the homeowners before doing the work.

This law requires contractors and subcontractors to disclose the existence of property and casualty insurance and the contact information of their insurance company to a consumer before commencing any work on their property. These provisions will give consumers the ability to recover damages that they have suffered from work done by contractors and subcontractors. **(Chapter 499 of the Laws of 2021)**

## **Large Print Format Availability for Written Communication from Debt Collectors (A.2260-A, Niou)**

Consumers already have the option to receive various pieces of correspondence in large print format, such as those from utility companies. This legislation extends that option to consumers receiving correspondence from creditors and/or debt collectors. This law will help consumers who are visually impaired and would allow them the option of receiving all further communication in a larger print format. **(Chapter 461 of the Laws of 2021)**

## **Requiring Persons Offering Weight Loss Services to Provide Notice of Risks (A.3173, Cook)**

Products and services designed to induce rapid weight loss can often be unreliable, ineffective, and unsafe. Expert dieticians consistently recommend making long-term adjustments to diet and exercise regimens as a healthier alternative to programs promising rapid weight loss through nutritional supplements, crash diets, or other methods. Consumers should be made aware of the risks of rapid weight loss programs prior to spending money on expensive diet programs in order to make an informed choice as to the programs' effectiveness.

This law requires anyone selling or offering weight loss services or products in New York State to provide prospective customers written information on the health risks of rapid weight loss, as well as informational resources to help educate consumers on supplements and programs before enrolling. **(Chapter 446 of the Laws of 2021)**

## **Warning Labels for Decorative Lighting Products Containing Lead (A.4522-A, Galef)**

Several independent studies have shown that certain decorative and seasonal holiday lights can contain more than 30 times the levels of lead permitted to be contained in children's products. Exposure to lead has repeatedly been proven to cause serious health problems, especially involving the brain, central nervous system, heart, and kidneys. Excessive lead exposure can cause depression and infertility and can slow developmental growth.

Lead exposure is particularly harmful to young children who are prone to increased exposure due to their curiosity and their penchant to put non-food items in their mouths. Parents should be made aware of the risk that some decorative holiday lights can pose to their families. This law requires



such products to come with a warning label. (**Chapter 634 of the Laws of 2021**)

### **Regulation of Gift Card Fees (A.4629-C, Sayegh)**

When a consumer purchases a gift card through a retailer, there are often various fees that are added onto the purchase. These include, but are not limited to, activation fees paid at the time of purchase and dormancy fees for failing to use a gift card for a certain period of time. While the federal government has put some regulations in place to protect consumers in the CARD ACT of 2009, many states have put further restrictions on the amount of the fees that can be charged.

This law aims to protect consumers from excessive fees on gift cards by limiting the fees and prohibiting gift cards that decline in value over time. In addition, to further eliminate loss of value to consumers, this legislation prohibits expiration dates on gift cards, limits the use of expiration dates on gift certificates and allows for redemption when the remaining balance is less than five dollars. This law will continue to protect consumers from losing value on gift cards that they have purchased and give them a chance to redeem the entire value of the card. (**Chapter 668 of the Laws of 2021**)

### **Regulation of Third Party Delivery Services (A.4651, Abbate)**

With the increase in technology and applications for food delivery services, the need to protect the consumers and restaurants from any deceptive acts or practices has never been greater. During the COVID-19 pandemic especially, consumers and restaurants relied on these services in order to protect the public health. While consumers have increasingly demanded these services for their convenience, restaurants should have control over their product and how it is advertised, sold, and delivered.

This law prohibits a third party food delivery service from advertising or listing on their platform, or arranging for delivery from any food service establishments without a valid agreement authorizing the inclusion of their products on such platform. Additionally, it prohibits any provision in one of these agreements that requires a food service establishment to compensate a third party delivery app or anyone acting on behalf of the delivery app for any damages or harm that has occurred after the product has left the establishment. This legislation helps protect restaurants that have been particularly harmed during the COVID-19 pandemic while still giving consumers the access to the convenience of these delivery service platforms. (**Chapter 693 of the Laws of 2021**)

### **Regulation of Voice Recognition Devices (A.4855, Gunther)**

With the growing number of voice recognition devices, the need for legislation to regulate the use of these products has become apparent. In the past, companies that made these products would frequently record users without their knowledge, and even use their voice for advertising purposes without the consumer's consent.

In order to address the above concerns, this legislation requires a disclosure process to consumers before the installation of one of these devices that the device may collect and retain recordings of the consumers' voice. In addition, this bill would ban the use or sale of recorded voices captured by connected service device companies and any third party contractors that they employ for advertising purposes. This bill would help consumers understand what they are signing up for when having one of these devices in their house and helps protect them from

having their voice used without their consent. **(Passed the Assembly)**

### **Establishing a Grace Period for the Use of Credit Card Reward Points (A.5698-B, Rozic)**

When receiving a credit card, consumers are usually told that they can accumulate credit card reward points as part of the benefit of using that company's card. The agreements that are signed however are often very lengthy and confusing for consumers to the point where they might not understand how the reward point system works once they accumulate the points. One particular provision in many credit card agreements allows the credit card issuer to cancel all accumulated rewards points or other rewards benefits upon the closure of the credit card account, without affording the credit card holder any opportunity to use accumulated points.

This law seeks to remedy that problem by requiring that notice would be given to credit card holders within 45 days of cancellation or modification of a credit card account and give the consumer a 90-day grace period to use the accumulated credit card points they have. This will allow consumers to be notified of any rewards points that have legally earned and give them an opportunity to use those points. **(Chapter 667 of the Laws of 2021)**

### **Licenses for Electronic Books to Libraries (A.5837-B, Jean-Pierre)**

Public libraries are very important for communities all across NYS and provide a vital resource to consumers. As the market for electronic books has increased, some publishers are introducing practices that significantly interfere with libraries' ability to continue to provide their patrons with equitable access. This bill would address such concerns to ensure that all consumers have the ability to access eBooks in a fair and reasonable manner by requiring publishers that offer eBooks to provide eBooks to libraries under reasonable terms and conditions to prohibit harmful practices against libraries and library patrons. **(Veto Memo 72)**

### **Including Electronic Messaging Texts as a Form of Telemarketing Communication (A.6040, Burgos)**

Currently, section 399-z of the General Business Law that regulates telemarketing activity does not include "text messaging" in the definition of telemarketing. Many companies today use text messaging as part of telemarketing and targeted advertising to consumers and they are not bound by the current regulations that other forms of telemarketing are. This law adds text messaging into the already existing framework of telemarketing and will further protect consumers from nuisance telemarketing on their cell phones. **(Chapter 239 of the Laws of 2021)**

### **Motor Vehicle Dealers Repairing Recalled Vehicles Before Sales (A.6041, Rajkumar)**

When people sell or trade in their vehicle to dealers or third parties, the manufacturer often has no way of notifying the person or entity that has possession of the vehicle of safety recalls that may occur. This legislation would require used car dealers to search for recalls and make necessary repairs to satisfy any open recalls before the car is sold. This bill would ease the consumer's worry that a car they are purchasing may not be safe and would help to keep unsafe cars off of the roads. **(Passed the Assembly)**

## **Debt Collection Procedures Related to Identity Theft (A.7487, Fall)**

In today's digital society, the concern for identity theft is always present since it can be quite damaging to any consumer that falls victim to it. Often identity theft occurs between parties who do not know each other but identity theft can also occur as a result of a domestic violence or an elder abuse situation, where the perpetrator is known to the victim. In these situations a victim may not want to report a case of identity theft to the police because of the previous relationship with the perpetrator.

In order for collection activities against the victim to be suspended while further investigation takes place, the current law compels a victim of identity theft to report such crime to law enforcement, whether they wish to or not, or whether or not it is safe for them to do so. This bill would add another option for a consumer to prove that they are a victim of identity theft by allowing a signed federal trade commission identity theft victim's report filed by the debtor to also halt collection activities until further investigation is complete. **(Passed the Assembly)**

### **III. ROUNDTABLES & HEARINGS**

#### **Data Privacy Roundtable**

On Friday, May 21<sup>st</sup> the Committee joined with the Science and Technology Committee to hold a roundtable on the future of data privacy. In attendance were representatives from technology, industry, and consumer advocacy groups in order to discuss the need for data privacy legislation and the best way to craft such legislation.

The discussion focused on the rapidly changing topic of data privacy and the impact that any legislation would have on consumers and individuals in New York. Other topics that were discussed included activities that should be covered in a data privacy law, exemptions that may be required, what level of access and control of data would be appropriate, and various additional valuable consumer protections.

The Committees received a significant amount of feedback regarding this industry and will continue to monitor issues related to data privacy in the upcoming session and take necessary and appropriate steps to protect New York's consumers and their data.

#### **Electronic Notarization Hearing**

On Friday, May 7<sup>th</sup> the Consumers Committee joined the Governmental Operations, Banks, and Judiciary committees to hold a hearing regarding the use of Electronic Notarization. The hearing brought together various stakeholders to discuss the impact of authorizing licensed notaries public to conduct notarizations through electronic or remote means.

This hearing was important because a wide variety of professions and government entities use notarization as an essential tool for document authentication and for many years notarizations have been completed in person. However, during the COVID-19 pandemic it became difficult to conduct business safely in person. This led to an Executive Order allowing for authorizing notarizations to be done through a remote process, however this was only a temporary order and it began a discussion of whether electronic notarization should be allowed more permanently, after the expiration of the executive order.

After this hearing, the Assembly passed A.399-B (Rozic) which authorizes the use of video and audio conference technology in identifying individuals for electronic notarization. The Assembly views this legislation as an important step towards modernizing the electronic notarization process while maintaining the integrity and security of the process.

#### **IV. OUTLOOK AND GOALS FOR 2022**

The 2022 Legislative Session promises to present many challenges to the Consumer Affairs and Protection Committee.

Protecting consumers' privacy will continue to be a primary concern for the Committee as major companies and governments continue to suffer breaches of consumers' personal data, and more and more devices are connected to the internet. The Committee will work to protect consumers' data, inform consumers of breaches of confidential data in a timely manner, and provide redress and additional protection to consumers who have been harmed by a breach of their private information.

The Committee is also committed to defending consumers from fraudulent and predatory business practices and will continue to advance legislation that protects consumers' health, safety, and financial well-being while not unduly burdening businesses. In addition, the Committee will look to further address the growing concern regarding robocalls and nuisance calls in order to protect the consumer from the burden of dealing with these calls on a daily basis. Consumers deserve the peace of mind that comes with the knowledge that their government is protecting them from scams, requiring stringent safety standards for consumer products, and advocating for their best interests.

As in the past, the Committee will continue to address issues brought to its attention by legislators, the executive branch, staff, and the people of the State of New York.

## V. APPENDIX A

### CHAPTERS OF 2021

Chapter 239	Burgos	Relates to including electronic messaging texts as a form of telemarketing communication.
Chapter 446	Cook	Requires persons offering weight loss services to provide notice of certain weight loss and dieting information.
Chapter 461	Niou	Relates to requiring debt collectors to inform debtors that written communications are available in large print format.
Chapter 499	Barnwell	Relates to requiring contractors and subcontractors to disclose the existence of property and casualty insurance.
Chapter 515	Pheffer Amato	Relates to prohibiting the sale of whipped cream chargers to persons under the age of 21.
Chapter 567	Wallace	Requires a homeowner be provided a cost estimate for installation of a fire sprinkler system.
Chapter 582	Paulin	Relates to telecommunication companies blocking certain numbers.
Chapter 634	Galef	Relates to the manufacture and sale of seasonal and decorative lighting products containing lead.
Chapter 667	Rozic	Relates to establishing a set grace period for the use of credit card reward points.
Chapter 668	Sayegh	Relates to fees for gift cards.
Chapter 693	Abbate	Relates to prohibiting a third party food delivery service from advertising or listing on their platform without a valid agreement authorizing the inclusion of their products on such platform.

## VI. APPENDIX B

### 2021 BILLS PASSED BY THE ASSEMBLY

A.83	Quart	Raises the maximum fine for persons who violate the law regulating telemarketing to \$20,000.
A.256	Paulin	Relates to the prohibition of the sale of infant inclined sleepers and the restriction of the use of such inclined sleepers in certain settings.
A.268-A	Paulin	Requires telecommunication providers to block certain phone calls.
A.711	Wallace	Requires a homeowner be provided a cost estimate for installation of a fire sprinkler system.
A.754-A	Pheffer Amato	Prohibits the sale of whipped cream chargers to persons under the age of 21.
A.981	Dilan	Relates to the expiration of minutes purchased with prepaid cellular telephone cards.
A.1370	Seawright	Relates to the personal information of a credit or debit card holder; adds zip code, e-mail address and home, cell and work telephone numbers to the personal information protected.
A.1450	Dinowitz	Relates to requiring mandatory arbitration clauses in certain consumer contracts to be disclosed to the consumer.
A.1932-B	Carroll	Relates to designating new automotive broker businesses.
A.2202	Barnwell	Relates to requiring contractors and subcontractors to disclose the existence of property and casualty insurance.
A.3173	Cook	Require persons offering weight loss services to provide notice of certain weight loss and dieting information.
A.4651	Abbate	Requires third-party delivery services to have a valid agreement with a merchant before they advertise, promote, or sell the merchant's products on their platform.
A.4855	Gunther	Relates to the use of voice recognition features on certain products.
A.4522-A	Galef	Relates to the manufacture and sale of seasonal and decorative lighting products containing lead.
A.4629-C	Sayegh	Relates to fees for gift cards by limiting the amount a merchant may charge for the gift card and prohibiting the expiration of such gift cards or certificates with the exception of promotional gift certificates in which such

		certificates may not expire earlier than 9 years after the date it was issued.
A.5698-B	Rozic	Relates to establishing a set grace period for the use of credit card reward points.
A.5837-B	Jean-Pierre	Relates to requiring publishers to offer licenses for electronic books to libraries under reasonable terms.
A.6040	Burgos	Relates to including electronic messaging texts as a form of telemarketing communication.
A.7487	Fall	Relates to debt collection procedures related to identity theft.



**VII. APPENDIX C**

**2021 SUMMARY OF ACTION ON ALL BILLS**

**Referred to the New York State Assembly Standing  
Committee on Consumer Affairs and Protection**

**Total Number of Committee Meetings Held: 6**

	<b>Assembly Bills</b>	<b>Senate Bills</b>	<b>Total Bills</b>
<b>Bills Reported Favorable To:</b>			
Codes	21	0	21
Judiciary	0	0	0
Ways and Means	1	0	1
Rules	4	0	4
Floor	3	0	3
<b>TOTAL</b>	<b>29</b>	<b>0</b>	<b>29</b>
<b>Committee Action</b>			
Held for Consideration	0	0	0
Defeated	0	0	0
Enacting Clause Stricken	2	0	2
<b>Remaining in Committee</b>	<b>155</b>	<b>8</b>	<b>163</b>
<b>Bills Reference Changed To:</b>			
Corporations and Authorities	9	0	9
Codes	1	0	1
<b>TOTAL</b>	<b>10</b>	<b>0</b>	<b>10</b>