

1 HB295
2 202826-1
3 By Representative Kiel
4 RFD: Judiciary
5 First Read: 20-FEB-20

SYNOPSIS: This bill would prohibit a person from capturing a biometric identifier of another individual for a commercial purpose without that individual's consent.

This bill would provide certain requirements for the storage, use, and destruction of biometric identifiers of another individual captured for a commercial purpose.

This bill would also provide a civil penalty for a violation and would authorize the Attorney General to pursue that penalty on behalf of an injured party.

A BILL
TO BE ENTITLED
AN ACT

Relating to privacy rights; to prohibit the capture of a biometric identifier for a commercial purpose without consent; to provide requirements for the storage, use, and

1 destruction of biometric identifiers captured for a commercial
2 purpose; and to provide a civil penalty for a violation.

3 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

4 Section 1. (a) As used in this section, biometric
5 identifier means a retina or iris scan, fingerprint,
6 voiceprint, or record of hand or face geometry. The term does
7 not include voiceprint data retained by a financial
8 institution or an affiliate of a financial institution, as
9 those terms are defined by 15 U.S.C. § 6809.

10 (b) A person may not capture a biometric identifier
11 of an individual for a commercial purpose unless the person
12 receives the individual's consent. To be valid, the consent
13 must be given before capturing the biometric identifier and
14 must be in writing.

15 (c) A person who possesses a biometric identifier of
16 an individual that is captured for a commercial purpose shall
17 meet all of the following requirements:

18 (1) The person may not sell, lease, or otherwise
19 disclose the biometric identifier to another person unless any
20 of the following apply:

21 a. The individual consents to the disclosure for
22 identification purposes in the event of the individual's
23 disappearance or death.

24 b. The disclosure completes a financial transaction
25 that the individual requested or authorized.

26 c. The disclosure is required or authorized by a
27 federal or state law.

1 d. The disclosure is made by or to a law enforcement
2 agency for a law enforcement purpose in response to a warrant.

3 (2) The person shall store, transmit, and protect
4 from disclosure the biometric identifier using reasonable care
5 and in a manner that is the same as or more protective than
6 the manner in which the person stores, transmits, and protects
7 any other confidential information the person possesses.

8 (3) Except as provided in subdivision (1) of
9 subsection (d), the person shall destroy the biometric
10 identifier within a reasonable time, but not later than the
11 first anniversary of the date the purpose for collecting the
12 identifier expires.

13 (d) (1) If a biometric identifier of an individual
14 captured for a commercial purpose is used in connection with
15 an instrument or document that is required by another law to
16 be maintained for a period longer than the period prescribed
17 by subdivision (3) of subsection (c), the person who possesses
18 the biometric identifier shall destroy the biometric
19 identifier within a reasonable time, but not later than the
20 first anniversary of the date the instrument or document is no
21 longer required to be maintained by law.

22 (2) If a biometric identifier captured for a
23 commercial purpose has been collected for security purposes by
24 an employer, the purpose for collecting the identifier under
25 subdivision (3) of subsection (c) is presumed to expire on
26 termination of the employment relationship.

1 (e) A person who violates this section is subject to
2 a civil penalty of not more than twenty-five thousand dollars
3 (\$25,000) for each violation. The Attorney General may bring
4 an action to recover the civil penalty.

5 Section 2. This act shall become effective on the
6 first day of the third month following its passage and
7 approval by the Governor, or its otherwise becoming law.