

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

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

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

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

21 A BILL  
22 TO BE ENTITLED  
23 AN ACT

24  
25 Relating to privacy rights; to prohibit the capture  
26 of a biometric identifier for a commercial purpose without  
27 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.