

# STATE OF NEW YORK

10794

## IN ASSEMBLY

May 18, 2018

Introduced by M. of A. BRAUNSTEIN -- read once and referred to the  
Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to the use of  
biometric data for marketing purposes

The People of the State of New York, represented in Senate and Assem-  
bly, do enact as follows:

1 Section 1. The general business law is amended by adding a new section  
2 399-dddd to read as follows:

3 § 399-dddd. Use of biometric data for marketing purposes. 1. As used  
4 in this section the following terms shall have the following meanings:

5 (a) "Private entity" means any individual, partnership, corporation,  
6 limited liability company, association, or other group, however organ-  
7 ized. A private entity does not include a state or local government  
8 agency;

9 (b) "Biometric identifier" means data generated by automatic measure-  
10 ments of an individual's biological characteristics, such as a finger-  
11 print, voiceprint, eye retinas, irises, or other unique biological  
12 pattern or characteristic that is used to identify a specific individ-  
13 ual. Biometric identifier does not include a physical or digital photo-  
14 graph, video or audio recording or data generated therefrom, or informa-  
15 tion collected, used, or stored for health care treatment, payment, or  
16 operations under the federal health insurance portability and account-  
17 ability act of 1996; and

18 (c) "Biometric information" means any information, regardless of how  
19 it is captured, converted, stored, or shared, based on an individual's  
20 biometric identifier used to identify an individual. Biometric informa-  
21 tion does not include information derived from items or procedures  
22 excluded under the definition of biometric identifiers.

23 2. No private entity shall use biometric identifiers or biometric  
24 information for any advertising, detailing, marketing, promotion, or any  
25 other activity that is intended to be used to influence business volume,  
26 sales or market share or to evaluate the effectiveness of marketing  
27 practices or marketing personnel, regardless of whether the beneficiary  
28 of such activity is a governmental, for-profit or not-for-profit entity.

29 § 2. This act shall take effect on the thirtieth day after it shall  
30 have become a law.

EXPLANATION--Matter in italics (underscored) is new; matter in brackets  
[-] is old law to be omitted.

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