# STATE OF NEW YORK

235

2019-2020 Regular Sessions

# IN ASSEMBLY

(Prefiled)

January 9, 2019

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 Assembly, do enact as follows:

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

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

(a) "Private entity" means any individual, partnership, corporation, limited liability company, association, or other group, however organized. A private entity does not include a state or local government agency;

(b) "Biometric identifier" means data generated by automatic measurements of an individual's biological characteristics, such as a fingerprint, voiceprint, eye retinas, irises, or other unique biological pattern or characteristic that is used to identify a specific individual. Biometric identifier does not include a physical or digital photograph, video or audio recording or data generated therefrom, or information collected, used, or stored for health care treatment, payment, or operations under the federal health insurance portability and accountability act of 1996; and

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

2. No private entity shall use biometric identifiers or biometric information for any advertising, detailing, marketing, promotion, or any

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

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**other activity that is intended to be used to influence business volume, sales or market share or to evaluate the effectiveness of marketing practices or marketing personnel, regardless of whether the beneficiary of such activity is a governmental, for-profit or not-for-profit entity.**

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