STATE OF NEW YORK

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8373

2019-2020 Regular Sessions

IN ASSEMBLY

June 15, 2019
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Introduced by M. of A. WALKER -- read once and referred to the Committee
 on Education

AN ACT to amend the real property law, in relation to prohibiting the
 use of a facial recognition system in public schools

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

1   Section 1. The real property law is amended by adding a new section
2 235-h to read as follows:
3   § 235-h. Unlawful use of facial recognition system. 1. As used in this
4 section:
5   (a) "Facial recognition" means both:
6   (1) the automated or semi-automated process by which a person is iden-
7 tified or attempted to be identified based on the characteristics of
8 their face, including identification of known or unknown individuals or
9 groups; and
10   (2) the automated or semi-automated process by which the character-
11 istics of an individual's face are analyzed to determine the individ-
12 ual's sentiment, state of mind, or other propensities including but not
13 limited to level of dangerousness.
14   (b) "Facial recognition system" means any computer software or appli-
15 cation that performs facial recognition.
16   2. Notwithstanding any law, rule or regulation to the contrary, it is
17 unlawful for any person to obtain, retain, access, or use, on any public
18 school premises:
19   (a) any facial recognition system; or
20   (b) any information obtained from or by use of a facial recognition
21 system.
22   3. (a) Wherever there shall be a violation of this section, an appli-
23 cation may be made by the attorney general in the name of the people of
24 the state of New York to a court or justice having jurisdiction to issue
25 an injunction, and upon notice to the defendant of not less than five

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

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1 days, to enjoin and restrain the continuance of such violations; and if
2 it shall appear to the satisfaction of the court or justice, that the
3 defendant has, in fact, violated this section an injunction may be
4 issued by such court or justice enjoining and restraining any further
5 violation, without requiring proof that any person has, in fact, been
6 injured or damaged thereby. In any such proceeding, the court may make
7 allowances to the attorney general as provided in paragraph six of
8 subdivision (a) of section eighty-three hundred three of the civil prac-
9 tice law and rules, and direct restitution. Whenever the court shall
10 determine that a violation of this section has occurred, the court may
11 impose a civil penalty of not more than ten thousand dollars. In
12 connection with any such proposed application, the attorney general is
13 authorized to take proof and make a determination of the relevant facts
14 and to issue subpoenas in accordance with the civil practice law and
15 rules.
16   (b) In addition to the right of action granted to the attorney general
17 pursuant to this section, any person who has been subjected to facial
18 recognition in violation of this section, or about whom information has
19 been obtained, retained, accessed, or used in violation of this chapter,
20 may bring an action in any court of competent jurisdiction:
21   (1) to enjoin such violation; and
22   (2) to recover actual damages, or to receive one thousand dollars in
23 damages for such violation, whichever is greater.
24   (c) A court shall award costs and reasonable attorneys' fees to a
25 plaintiff who is the prevailing party in an action brought under para-
26 graph (b) of this subdivision.
27   § 2. This act shall take effect on the one hundred twentieth day after
28 it shall have become a law.