STATE OF NEW YORK

8373

2019-2020 Regular Sessions

IN ASSEMBLY

June 15, 2019

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 Assembly, do enact as follows:

Section 1. The real property law is amended by adding a new section 235-h to read as follows:

§ 235-h. Unlawful use of facial recognition system. 1. As used in this section:

(a) "Facial recognition" means both:

(1) the automated or semi-automated process by which a person is identified or attempted to be identified based on the characteristics of their face, including identification of known or unknown individuals or groups; and

(2) the automated or semi-automated process by which the characteristics of an individual's face are analyzed to determine the individual's sentiment, state of mind, or other propensities including but not limited to level of dangerousness.

(b) "Facial recognition system" means any computer software or application that performs facial recognition.

2. Notwithstanding any law, rule or regulation to the contrary, it is unlawful for any person to obtain, retain, access, or use, on any public school premises:

(a) any facial recognition system; or

(b) any information obtained from or by use of a facial recognition system.

3. (a) Wherever there shall be a violation of this section, an application may be made by the attorney general in the name of the people of the state of New York to a court or justice having jurisdiction to issue 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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days, to enjoin and restrain the continuance of such violations; and if it shall appear to the satisfaction of the court or justice, that the defendant has, in fact, violated this section an injunction may be issued by such court or justice enjoining and restraining any further violation, without requiring proof that any person has, in fact, been injured or damaged thereby. In any such proceeding, the court may make allowances to the attorney general as provided in paragraph six of subdivision (a) of section eighty-three hundred three of the civil practice law and rules, and direct restitution. Whenever the court shall determine that a violation of this section has occurred, the court may impose a civil penalty of not more than ten thousand dollars. In connection with any such proposed application, the attorney general is authorized to take proof and make a determination of the relevant facts and to issue subpoenas in accordance with the civil practice law and rules.

(b) In addition to the right of action granted to the attorney general pursuant to this section, any person who has been subjected to facial recognition in violation of this section, or about whom information has been obtained, retained, accessed, or used in violation of this chapter, may bring an action in any court of competent jurisdiction:

(1) to enjoin such violation; and

(2) to recover actual damages, or to receive one thousand dollars in damages for such violation, whichever is greater.

(c) A court shall award costs and reasonable attorneys' fees to a plaintiff who is the prevailing party in an action brought under paragraph (b) of this subdivision.

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