STATE OF NEW YORK

2500

2019-2020 Regular Sessions

IN SENATE

January 25, 2019

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Introduced by Sen. MARTINEZ -- read twice and ordered printed, and when
    printed to be committed to the Committee on Consumer 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:

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 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,
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1 **sales or market share or to evaluate the effectiveness of marketing**
2 **practices or marketing personnel, regardless of whether the beneficiary**
3 **of such activity is a governmental, for-profit or not-for-profit entity.**
4   § 2. This act shall take effect on the thirtieth day after it shall
5 have become a law.