

# STATE OF NEW YORK

5687

2019-2020 Regular Sessions

## IN SENATE

May 13, 2019

Introduced by Sens. HOYLMAN, MONTGOMERY -- read twice and ordered printed, and when printed to be committed to the Committee on Judiciary

AN ACT to amend the real property law, in relation to prohibiting the use of a facial recognition system by a landlord on any residential premises

The People of the State of New York, represented in Senate and Assembly, 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 landlord to obtain, retain, access, or use, on any  
18 residential 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

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

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1 an injunction, and upon notice to the defendant of not less than five  
2 days, to enjoin and restrain the continuance of such violations; and if  
3 it shall appear to the satisfaction of the court or justice, that the  
4 defendant has, in fact, violated this section an injunction may be  
5 issued by such court or justice enjoining and restraining any further  
6 violation, without requiring proof that any person has, in fact, been  
7 injured or damaged thereby. In any such proceeding, the court may make  
8 allowances to the attorney general as provided in paragraph six of  
9 subdivision (a) of section eighty-three hundred three of the civil prac-  
10 tice law and rules, and direct restitution. Whenever the court shall  
11 determine that a violation of this section has occurred, the court may  
12 impose a civil penalty of not more than ten thousand dollars. In  
13 connection with any such proposed application, the attorney general is  
14 authorized to take proof and make a determination of the relevant facts  
15 and to issue subpoenas in accordance with the civil practice law and  
16 rules.

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

22 (1) to enjoin such violation; and

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

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

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