STATE OF NEW YORK

2539--A

2025-2026 Regular Sessions

IN SENATE

January 21, 2025

Introduced by Sen. MYRIE -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection -- recommitted to the Committee on Consumer Protection in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the general business law, in relation to requiring retailers to post warning signs of the tracking of customers through electronic devices that track, monitor, and collect biometric identifier information on customers

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 390-f to read as follows:

§ 390-f. Posting of warning signs by retailers tracking customers through electronic devices and collecting biometric data of customers. 1. Any retailer that tracks a customer by use of the customer's cell phone, a store-installed camera or any other electronic device while the customer is in their establishment shall conspicuously post a warning sign at each entrance indicating that such retailer performs such tracking. Such warning sign shall also provide information for customers who wish to opt out of the tracking and collection of data, if applicable.

2. (a) Any retailer that collects, retains, converts, stores or shares biometric identifier information of customers shall conspicuously post a warning sign at each entrance indicating that such retailer collects biometric identifier information. Such warning sign shall be written in plain language and describe the type of biometric identifier information being collected and how such information is used by the retailer. Such warning sign shall also provide information for customers who wish to opt out of the collection of biometric identifier information, if applicable.

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

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(b) It shall be unlawful for a retailer to sell, lease, trade, share in exchange for anything of value or otherwise profit from the transaction of biometric identifier information.

3. Any retailer that violates this section shall be subject to a civil penalty of not more than one hundred dollars for the first violation, not more than two hundred fifty dollars for the second violation, and not more than five hundred dollars for each violation thereafter. The provisions of subdivision one of this section may be enforced concurrently by the director of a municipal consumer affairs office, or by the town attorney, city corporation counsel, or other lawful designee of a municipality or local government, and all moneys collected thereunder shall be retained by such municipality or local government.

4. The provisions of this section shall not apply to cameras and other technology solely intended for video surveillance to ensure the security of a store.

5. For purposes of this section, the following terms shall have the following meanings:

(a) "Electronic device" shall mean any cell phone as defined by paragraph (b) of this subdivision, personal digital assistant, handheld device with mobile data access, laptop computer, pager, broadband personal communication device, two-way messaging device, electronic game, or portable computing device, or any other electronic device when used to input, write, send, receive, or read text for present or future communication.

(b) "Cell phone" shall mean the device used by subscribers and other users of wireless telephone service to access such service.

(c) "Wireless telephone service" shall mean two-way real time voice telecommunications service that is interconnected to a public switched telephone network and is provided by a commercial mobile radio service, as such term is defined by 47 C.F.R. § 20.3.

(d) "Tracking" includes, but is not limited to, situations where retailers track a person's movement throughout the establishment for purposes of storing or selling such information pertaining to such person. "Tracking" does not include the use of electronic devices that are not unique to a particular person.

(e) "Biometric identifier information" means a physiological or biological characteristic that is used by or on behalf of a commercial establishment, singly or in combination, to identify, or assist in identifying, an individual, including, but not limited to: (i) a retina or iris scan, (ii) a fingerprint or voiceprint, (iii) a scan of hand or face geometry, or (iv) any other identifying characteristic.

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