

# HOUSE BILL 259

I3  
HB 218/21 – ECM

2lr1320  
CF SB 335

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By: **Delegates Love, Carey, Charkoudian, Hill, Jackson, Lehman, R. Lewis, Qi, Rogers, ~~and Watson~~ Watson, and Grammer**

Introduced and read first time: January 13, 2022

Assigned to: Economic Matters

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Committee Report: Favorable with amendments

House action: Adopted with floor amendments

Read second time: March 11, 2022

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## CHAPTER \_\_\_\_\_

1 AN ACT concerning

2 **Commercial Law – Consumer Protection – Biometric ~~Identifiers~~ Data Privacy**

3 FOR the purpose of regulating the use of biometric ~~identifiers~~ data by private entities,  
4 including by requiring certain private entities in possession of biometric ~~identifiers~~  
5 data to develop a policy, made available to the public, establishing a retention  
6 schedule and destruction guidelines for biometric ~~identifiers~~ data; authorizing an  
7 individual alleging a violation of this Act to bring a civil action against the offending  
8 private entity under certain circumstances; making a violation of this Act an unfair,  
9 abusive, or deceptive trade practice that is subject to enforcement and penalties  
10 under the Maryland Consumer Protection Act; and generally relating to biometric  
11 ~~identifiers~~ data privacy.

12 BY repealing and reenacting, with amendments,

13 Article – Commercial Law

14 Section 13–301(14)(xxxiv) and (xxxv) and 13–408

15 Annotated Code of Maryland

16 (2013 Replacement Volume and 2021 Supplement)

17 BY adding to

18 Article – Commercial Law

19 Section 13–301(14)(xxxvi); and 14–4401 through ~~14–4405~~ 14–4406 to be under the  
20 new subtitle “Subtitle 44. Biometric ~~Identifiers~~ Data Privacy Act”

21 Annotated Code of Maryland

22 (2013 Replacement Volume and 2021 Supplement)

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EXPLANATION: CAPITALS INDICATE MATTER ADDED TO EXISTING LAW.

[Brackets] indicate matter deleted from existing law.

Underlining indicates amendments to bill.

~~Strike out~~ indicates matter stricken from the bill by amendment or deleted from the law by amendment.



1 SECTION 1. BE IT ENACTED BY THE GENERAL ASSEMBLY OF MARYLAND,  
2 That the Laws of Maryland read as follows:

3 **Article – Commercial Law**

4 13–301.

5 Unfair, abusive, or deceptive trade practices include any:

6 (14) Violation of a provision of:

7 (xxxiv) The federal Servicemembers Civil Relief Act; [or]

8 (xxxv) [\$] SECTION 11–210 of the Education Article; or

9 (xxxvi) TITLE 14, SUBTITLE 44 OF THIS ARTICLE; OR

10 13–408.

11 (a) In addition to any action by the Division or Attorney General authorized by  
12 this title and any other action otherwise authorized by law, any person may bring an action  
13 to recover for injury or loss sustained by [him] THE PERSON as the result of a practice  
14 prohibited by this title.

15 (b) Any person who brings an action to recover for injury or loss under this section  
16 and who is awarded damages may also seek, and the court may award, reasonable  
17 attorney’s fees.

18 (c) If it appears to the satisfaction of the court, at any time, that an action is  
19 brought in bad faith or is of a frivolous nature, the court may order the offending party to  
20 pay to the other party reasonable attorney’s fees.

21 (d) Notwithstanding any other provision of this section, a person may not bring  
22 an action under this section to recover for injuries sustained as a result of the professional  
23 services provided by a health care provider, as defined in § 3–2A–01 of the Courts Article.

24 **SUBTITLE 44. BIOMETRIC IDENTIFIERS DATA PRIVACY ACT.**

25 14–4401.

26 (A) IN THIS SUBTITLE THE FOLLOWING WORDS HAVE THE MEANINGS  
27 INDICATED.

28 ~~(B) (1) “BIOMETRIC IDENTIFIER” MEANS THE DATA OF AN INDIVIDUAL~~  
29 ~~GENERATED BY AUTOMATIC MEASUREMENTS OF AN INDIVIDUAL’S UNIQUE~~

~~BIOLOGICAL CHARACTERISTICS SUCH AS A FACEPRINT, FINGERPRINT, VOICEPRINT, RETINA OR IRIS IMAGE, OR ANY OTHER BIOLOGICAL CHARACTERISTIC THAT CAN BE USED TO UNIQUELY AUTHENTICATE THE INDIVIDUAL'S IDENTITY.~~

~~(2) "BIOMETRIC IDENTIFIER" DOES NOT INCLUDE:~~

~~(I) A WRITING SAMPLE OR WRITTEN SIGNATURE;~~

~~(II) A PHOTOGRAPH OR VIDEO;~~

~~(III) A HUMAN BIOLOGICAL SAMPLE USED FOR VALID SCIENTIFIC TESTING OR SCREENING;~~

~~(IV) DEMOGRAPHIC DATA;~~

~~(V) A PHYSICAL DESCRIPTION, INCLUDING HEIGHT, WEIGHT, HAIR COLOR, EYE COLOR, OR A TATTOO DESCRIPTION;~~

~~(VI) ANY DONATED PORTION OF A HUMAN BODY STORED ON BEHALF OF A RECIPIENT OR POTENTIAL RECIPIENT OF A LIVING OR CADAVERIC TRANSPLANT AND OBTAINED OR STORED BY A FEDERALLY DESIGNATED ORGAN PROCUREMENT AGENCY, INCLUDING AN ORGAN, TISSUE, AN EYE, A BONE, AN ARTERY, BLOOD, AND ANY OTHER FLUID OR SERUM;~~

~~(VII) INFORMATION CAPTURED FROM A PATIENT IN A HEALTH CARE SETTING OR INFORMATION COLLECTED, USED, OR STORED FOR HEALTH CARE TREATMENT, PAYMENT, OR OPERATIONS UNDER THE FEDERAL HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996; OR~~

~~(VIII) ANY IMAGE OR FILM OF THE HUMAN ANATOMY USED TO DIAGNOSE, PROVIDE A PROGNOSIS FOR, OR TREAT AN ILLNESS OR OTHER MEDICAL CONDITION OR TO FURTHER VALIDATE SCIENTIFIC TESTING OR SCREENING, INCLUDING AN X RAY, A ROENTGEN PROCESS, COMPUTED TOMOGRAPHY, A MAGNETIC RESONANCE IMAGING IMAGE, A POSITRON EMISSION TOMOGRAPHY SCAN, AND MAMMOGRAPHY.~~

(B) (1) "BIOMETRIC DATA" MEANS DATA GENERATED BY AUTOMATIC MEASUREMENTS OF THE BIOLOGICAL CHARACTERISTICS OF AN INDIVIDUAL, SUCH AS A FINGERPRINT, A VOICEPRINT, AN EYE RETINA, AN EYE IRIS, OR ANY OTHER UNIQUE BIOLOGICAL PATTERNS OR CHARACTERISTICS, THAT IS USED TO IDENTIFY A SPECIFIC INDIVIDUAL.

(2) "BIOMETRIC DATA" DOES NOT INCLUDE:

- 1                   **(I) A PHYSICAL OR DIGITAL PHOTOGRAPH;**  
 2                   **(II) A VIDEO OR AUDIO RECORDING; OR**  
 3                   **(III) INFORMATION COLLECTED, USED, OR STORED FOR HEALTH**  
 4 **CARE TREATMENT, PAYMENT, OR OPERATIONS UNDER THE FEDERAL HEALTH**  
 5 **INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996.**

6           **(C) “CONFIDENTIAL AND SENSITIVE INFORMATION” MEANS PERSONAL**  
 7 **INFORMATION THAT CAN BE USED TO UNIQUELY IDENTIFY AN INDIVIDUAL OR AN**  
 8 **INDIVIDUAL’S ACCOUNT OR PROPERTY, INCLUDING:**

- 9                   **(1) A GENETIC MARKER;**  
 10                   **(2) GENETIC TESTING INFORMATION;**  
 11                   **(3) A UNIQUE IDENTIFIER NUMBER TO LOCATE AN ACCOUNT OR**  
 12 **PROPERTY;**  
 13                   **(4) AN ACCOUNT NUMBER;**  
 14                   **(5) A PERSONAL IDENTIFICATION NUMBER;**  
 15                   **(6) A PASSCODE;**  
 16                   **(7) A DRIVER’S LICENSE NUMBER; AND**  
 17                   **(8) A SOCIAL SECURITY NUMBER.**

18           ~~**(D) (1) “PERSONAL INFORMATION” MEANS INFORMATION THAT**~~  
 19 ~~**DIRECTLY OR INDIRECTLY IDENTIFIES, RELATES TO, DESCRIBES, IS CAPABLE OF**~~  
 20 ~~**BEING ASSOCIATED WITH, OR COULD REASONABLY BE LINKED TO A PARTICULAR**~~  
 21 ~~**INDIVIDUAL, HOUSEHOLD, OR DEVICE.**~~

22           ~~**(2) “PERSONAL INFORMATION” INCLUDES INFORMATION THAT CAN**~~  
 23 ~~**BE REASONABLY LINKED TO A PARTICULAR INDIVIDUAL, HOUSEHOLD, OR DEVICE,**~~  
 24 ~~**EITHER ON ITS OWN OR IN COMBINATION WITH OTHER REASONABLY AVAILABLE**~~  
 25 ~~**INFORMATION, REGARDLESS OF WHETHER THE INFORMATION IS HELD BY THE**~~  
 26 ~~**PRIVATE ENTITY.**~~

27           **(D) (1) “CONSENT” MEANS A SPECIFIC, DISCRETE, FREELY GIVEN,**  
 28 **UNAMBIGUOUS, AND INFORMED AGREEMENT GIVEN BY AN INDIVIDUAL WHO IS NOT**  
 29 **UNDER ANY DURESS OR UNDUE INFLUENCE FROM A PRIVATE ENTITY OR THIRD**

1 PARTY TO COLLECT, USE, DISCLOSE, REDISCLOSE, OR OTHERWISE DISSEMINATE  
2 THE INDIVIDUAL'S BIOMETRIC DATA.

3 (2) "CONSENT" INCLUDES:

4 (I) A WRITTEN STATEMENT;

5 (II) A WRITTEN STATEMENT BY ELECTRONIC MEANS; AND

6 (III) IN THE CONTEXT OF EMPLOYMENT, A RELEASE EXECUTED  
7 BY AN EMPLOYEE AS A CONDITION OF EMPLOYMENT.

8 (E) (1) "PRIVATE ENTITY" MEANS ANY INDIVIDUAL, PARTNERSHIP,  
9 CORPORATION, LIMITED LIABILITY COMPANY, ASSOCIATION, OR OTHER GROUP,  
10 HOWEVER ORGANIZED.

11 (2) "PRIVATE ENTITY" DOES NOT INCLUDE:

12 (I) A STATE OR LOCAL GOVERNMENT AGENCY;

13 (II) A STATE COURT, CLERK OF THE COURT, JUDGE, OR  
14 COMMISSIONER;

15 (III) AN ENTITY, OR AN AFFILIATE OF AN ENTITY, SUBJECT TO  
16 AND IN COMPLIANCE WITH THE FEDERAL GRAMM-LEACH-BLILEY ACT; OR

17 (IV) AN ENTITY ACTING AS A PROCESSOR FOR ANOTHER ENTITY.

18 (F) ~~(1)~~ "PROCESSOR" MEANS AN ENTITY THAT PROCESSES, STORES, OR  
19 OTHERWISE USES BIOMETRIC ~~IDENTIFIERS~~ DATA ON BEHALF OF A PRIVATE ENTITY.

20 ~~(G) "WRITTEN CONSENT" MEANS:~~

21 ~~(1) A SPECIFIC, DISCRETE, FREELY GIVEN, UNAMBIGUOUS, AND~~  
22 ~~INFORMED CONSENT IN WRITING GIVEN BY AN INDIVIDUAL WHO IS NOT UNDER ANY~~  
23 ~~DURESS OR UNDUE INFLUENCE FROM THE PRIVATE ENTITY OR THIRD PARTY TO~~  
24 ~~WHOM THE CONSENT IS GIVEN AT THE TIME THE CONSENT IS GIVEN; OR~~

25 ~~(2) IN THE CONTEXT OF EMPLOYMENT, A RELEASE EXECUTED BY AN~~  
26 ~~EMPLOYEE AS A CONDITION OF EMPLOYMENT.~~

27 (G) (1) "SELL" MEANS THE PROVISION OF BIOMETRIC DATA FOR  
28 MONETARY CONSIDERATION BY A PRIVATE ENTITY TO A THIRD PARTY.

1           **(2) "SELL" DOES NOT INCLUDE THE DISCLOSURE OF BIOMETRIC**  
2 **DATA TO:**

3                   **(I) A PROCESSOR THAT PROCESSES, STORES, OR OTHERWISE**  
4 **USES BIOMETRIC DATA ON BEHALF OF THE PRIVATE ENTITY; OR**

5                   **(II) A THIRD PARTY FOR PURPOSES OF PROVIDING A SERVICE**  
6 **OR PRODUCT REQUESTED BY THE CONSUMER.**

7 14-4402.

8           **(A) (1) EXCEPT AS PROVIDED IN PARAGRAPH (3) OF THIS SUBSECTION**  
9 **AND SUBSECTION (B) OF THIS SECTION, EACH PRIVATE ENTITY IN POSSESSION OF**  
10 **BIOMETRIC ~~IDENTIFIERS~~ DATA SHALL DEVELOP A WRITTEN POLICY, MADE**  
11 **AVAILABLE TO THE PUBLIC, ESTABLISHING A RETENTION SCHEDULE AND**  
12 **GUIDELINES FOR PERMANENTLY DESTROYING BIOMETRIC ~~IDENTIFIERS~~ DATA ON**  
13 **THE EARLIEST OF THE FOLLOWING:**

14                   **(I) THE DATE ON WHICH THE INITIAL PURPOSE FOR**  
15 **COLLECTING OR OBTAINING THE BIOMETRIC ~~IDENTIFIERS~~ DATA HAS BEEN**  
16 **SATISFIED;**

17                   **(II) WITHIN ~~1-YEAR~~ 3 YEARS AFTER THE INDIVIDUAL'S LAST**  
18 **INTERACTION WITH THE PRIVATE ENTITY IN POSSESSION OF THE BIOMETRIC**  
19 **~~IDENTIFIERS~~ DATA; OR**

20                   **(III) WITHIN 30 DAYS AFTER THE PRIVATE ENTITY RECEIVES A**  
21 **VERIFIED REQUEST TO DELETE THE BIOMETRIC ~~IDENTIFIERS~~ DATA SUBMITTED BY**  
22 **THE INDIVIDUAL OR THE INDIVIDUAL'S REPRESENTATIVE.**

23           **(2) ABSENT A VALID WARRANT OR SUBPOENA ISSUED BY A COURT OF**  
24 **COMPETENT JURISDICTION, EACH PRIVATE ENTITY IN POSSESSION OF BIOMETRIC**  
25 **~~IDENTIFIERS OR BIOMETRIC INFORMATION~~ DATA SHALL COMPLY WITH THE**  
26 **RETENTION SCHEDULE AND DESTRUCTION GUIDELINES DEVELOPED UNDER**  
27 **PARAGRAPH (1) OF THIS SUBSECTION.**

28           **(3) A PRIVATE ENTITY IN POSSESSION OF BIOMETRIC DATA FOR**  
29 **FRAUD PREVENTION OR SECURITY PURPOSES IS NOT REQUIRED TO DELETE AN**  
30 **INDIVIDUAL'S BIOMETRIC DATA IN ACCORDANCE WITH PARAGRAPH (1)(II) AND (III)**  
31 **OF THIS SUBSECTION IF THE INDIVIDUAL IS PART OF THE STATE VOLUNTARY**  
32 **EXCLUSION PROGRAM.**

1 (B) A PRIVATE ENTITY MAY NOT BE REQUIRED TO MAKE PUBLICLY  
2 AVAILABLE A WRITTEN POLICY DEVELOPED UNDER SUBSECTION (A) OF THIS  
3 SECTION IF THE POLICY:

4 (1) APPLIES ONLY TO THE EMPLOYEES OF THE PRIVATE ENTITY; AND

5 (2) IS USED SOLELY FOR INTERNAL COMPANY OPERATIONS.

6 (C) EACH PRIVATE ENTITY IN POSSESSION OF BIOMETRIC IDENTIFIERS  
7 ~~DATA OR BIOMETRIC INFORMATION~~ SHALL STORE, TRANSMIT, AND PROTECT FROM  
8 DISCLOSURE ALL BIOMETRIC IDENTIFIERS AND BIOMETRIC INFORMATION DATA:

9 (1) USING THE REASONABLE STANDARD OF CARE WITHIN THE  
10 PRIVATE ENTITY'S INDUSTRY; AND

11 (2) IN A MANNER THAT IS AS PROTECTIVE AS OR MORE PROTECTIVE  
12 THAN THE MANNER THAT THE PRIVATE ENTITY STORES, TRANSMITS, AND PROTECTS  
13 OTHER CONFIDENTIAL AND SENSITIVE INFORMATION.

14 ~~14-4403.~~

15 ~~AT THE REQUEST OF AN INDIVIDUAL OR AN INDIVIDUAL'S LEGALLY~~  
16 ~~AUTHORIZED REPRESENTATIVE, A PRIVATE ENTITY THAT COLLECTS, USES, SHARES,~~  
17 ~~OR SELLS BIOMETRIC IDENTIFIERS SHALL DISCLOSE, FREE OF CHARGE, THE~~  
18 ~~BIOMETRIC IDENTIFIER AND INFORMATION RELATED TO THE USE OF THE~~  
19 ~~BIOMETRIC IDENTIFIER TO THE INDIVIDUAL, INCLUDING:~~

20 ~~(1) THE CATEGORIES OF BIOMETRIC IDENTIFIERS;~~

21 ~~(2) SPECIFIC PIECES OF PERSONAL INFORMATION RELATED TO THE~~  
22 ~~BIOMETRIC IDENTIFIERS;~~

23 ~~(3) THE CATEGORIES OF SOURCES THAT THE PRIVATE ENTITY~~  
24 ~~COLLECTED PERSONAL INFORMATION FROM LINKED TO THE BIOMETRIC~~  
25 ~~IDENTIFIER;~~

26 ~~(4) THE PURPOSES FOR WHICH THE PRIVATE ENTITY USED THE~~  
27 ~~BIOMETRIC IDENTIFIER AND PERSONAL INFORMATION;~~

28 ~~(5) THE CATEGORIES OF THIRD PARTIES WITH WHOM THE PRIVATE~~  
29 ~~ENTITY SHARES THE PERSONAL INFORMATION AND THE PURPOSES OF SHARING THE~~  
30 ~~PERSONAL INFORMATION; AND~~

~~(6) THE CATEGORIES OF INFORMATION THAT THE BUSINESS SELLS OR DISCLOSES TO THIRD PARTIES.~~

~~14-4404. 14-4403.~~

(A) A PRIVATE ENTITY THAT COLLECTS BIOMETRIC ~~IDENTIFIERS~~ DATA MAY NOT SELL, LEASE, OR TRADE, ~~OR OTHERWISE PROFIT FROM~~ AN INDIVIDUAL'S BIOMETRIC ~~IDENTIFIERS~~ DATA.

(B) (1) A PRIVATE ENTITY MAY NOT CONDITION THE PROVISION OF A SERVICE ON THE COLLECTION, USE, DISCLOSURE, TRANSFER, SALE, OR PROCESSING OF BIOMETRIC DATA UNLESS BIOMETRIC DATA IS STRICTLY NECESSARY TO PROVIDE THE SERVICE.

(2) A PRIVATE ENTITY MAY NOT CHARGE DIFFERENT PRICES OR RATES FOR GOODS OR SERVICES OR PROVIDE A DIFFERENT LEVEL OR QUALITY OF A GOOD OR SERVICE TO AN INDIVIDUAL WHO EXERCISES THE INDIVIDUAL'S RIGHTS UNDER THIS SUBTITLE.

(C) (1) A PRIVATE ENTITY THAT CONTRACTS WITH A PROCESSOR TO PROCESS OR STORE BIOMETRIC DATA MAY NOT ALLOW THE PROCESSOR TO COLLECT, STORE, PROCESS, USE, DISCLOSE, OR TAKE ANY ACTION FOR MONETARY CONSIDERATION ON OR WITH THE BIOMETRIC DATA OF AN INDIVIDUAL EXCEPT FOR PURPOSES FOR WHICH THE PRIVATE ENTITY RECEIVED CONSENT FROM THE INDIVIDUAL.

(2) EXCEPT AS AUTHORIZED BY A CONTRACT WITH A PRIVATE ENTITY THAT LEGALLY POSSESSES THE BIOMETRIC DATA, A PROCESSOR MAY NOT COLLECT, STORE, PROCESS, USE, DISCLOSE, OR TAKE ANY ACTION FOR MONETARY CONSIDERATION ON OR WITH THE BIOMETRIC DATA.

14-4404.

~~(B)~~ (A) A EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A PRIVATE ENTITY THAT COLLECTS BIOMETRIC ~~IDENTIFIERS~~ DATA MAY NOT COLLECT, USE, DISCLOSE, REDISCLOSE, OR OTHERWISE DISSEMINATE AN INDIVIDUAL'S BIOMETRIC ~~IDENTIFIERS~~ DATA UNLESS:

(1) THE INDIVIDUAL OR THE INDIVIDUAL'S LEGALLY AUTHORIZED REPRESENTATIVE ~~PROVIDES WRITTEN~~ GIVES CONSENT TO THE PARTICULAR OR CATEGORY OF COLLECTION, USE DISCLOSURE, REDISCLOSURE, OR DISSEMINATION;  
OR

(2) THE DISCLOSURE OR REDISCLOSURE IS REQUIRED BY:



1           **(I) BY A VALID WARRANT OR SUBPOENA;**

2           **(II) TO COMPLY WITH FEDERAL, STATE, OR LOCAL LAWS,**  
3 **RULES, OR REGULATIONS; OR**

4           **(III) TO COOPERATE WITH LAW ENFORCEMENT CONCERNING**  
5 **CONDUCT OR ACTIVITY THAT THE PRIVATE ENTITY OR THE PROCESSOR**  
6 **REASONABLY AND IN GOOD FAITH BELIEVES VIOLATES FEDERAL, STATE, OR LOCAL**  
7 **LAWS, RULES, OR REGULATIONS.**

8           **(B) (1) A PRIVATE ENTITY MAY COLLECT, USE, DISCLOSE, REDISCLOSE,**  
9 **OR OTHERWISE DISSEMINATE AN INDIVIDUAL'S BIOMETRIC DATA WITHOUT**  
10 **COMPLYING WITH SUBSECTION (A) OF THIS SECTION IF THE PRIVATE ENTITY:**

11           **(I) COLLECTS, USES, DISCLOSES, REDISCLOSES, OR**  
12 **OTHERWISE DISSEMINATES THE BIOMETRIC DATA FOR FRAUD PREVENTION OR**  
13 **SECURITY PURPOSES; AND**

14           **(II) SUBJECT TO PARAGRAPH (3) OF THIS SUBSECTION, POSTS**  
15 **CONSPICUOUS WRITTEN NOTICE OF THE COLLECTION OF BIOMETRIC DATA AT EACH**  
16 **POINT OF ENTRY.**

17           **(2) (I) THE COLLECTION, USE, DISCLOSURE, REDISCLOSURE, OR**  
18 **OTHER DISSEMINATION OF BIOMETRIC DATA UNDER THIS SUBSECTION SHALL BE**  
19 **DIRECTLY TIED TO THE SERVICES BEING PROVIDED BY THE PRIVATE ENTITY.**

20           **(II) A PRIVATE ENTITY THAT COLLECTS, USES, DISCLOSES,**  
21 **REDISCLOSES, OR OTHERWISE DISSEMINATES BIOMETRIC DATA UNDER THIS**  
22 **SUBSECTION MAY COLLECT, USE, DISCLOSE, REDISCLOSE, OR OTHERWISE**  
23 **DISSEMINATE ONLY WHAT IS STRICTLY NECESSARY FOR FRAUD PREVENTION AND**  
24 **SECURITY PURPOSES.**

25           **(3) THE NOTICE REQUIRED IN PARAGRAPH (1) OF THIS SUBSECTION**  
26 **SHALL INFORM CONSUMERS OF:**

27           **(I) THE CATEGORIES OF BIOMETRIC DATA TO BE COLLECTED;**  
28 **AND**

29           **(II) THE PURPOSES FOR WHICH THE CATEGORIES OF**  
30 **BIOMETRIC DATA WILL BE USED.**

31           ~~**(c) (1) A PRIVATE ENTITY MAY NOT CONDITION THE PROVISION OF A**~~  
32 ~~**SERVICE ON THE COLLECTION, USE, DISCLOSURE, TRANSFER, SALE, OR**~~

~~1 PROCESSING OF BIOMETRIC IDENTIFIERS UNLESS BIOMETRIC IDENTIFIERS ARE  
2 STRICTLY NECESSARY TO PROVIDE THE SERVICE.~~

~~3 (2) A PRIVATE ENTITY MAY NOT CHARGE DIFFERENT PRICES OR  
4 RATES FOR GOODS OR SERVICES OR PROVIDE A DIFFERENT LEVEL OR QUALITY OF  
5 A GOOD OR SERVICE TO ANY INDIVIDUAL WHO EXERCISES THE INDIVIDUAL'S RIGHTS  
6 UNDER THIS SUBTITLE.~~

~~7 (D) (1) A PRIVATE ENTITY THAT CONTRACTS WITH A PROCESSOR TO  
8 PROCESS OR STORE BIOMETRIC IDENTIFIERS MAY NOT ALLOW THE PROCESSOR TO  
9 COLLECT, STORE, PROCESS, USE, DISCLOSE, OR CONDUCT ANY ACTION FOR PROFIT  
10 OR OTHERWISE ON OR WITH THE BIOMETRIC IDENTIFIERS EXCEPT FOR PURPOSES  
11 FOR WHICH THE PRIVATE ENTITY RECEIVED EXPRESS WRITTEN CONSENT FROM THE  
12 INDIVIDUAL.~~

~~13 (2) A PROCESSOR MAY NOT COLLECT, STORE, PROCESS, USE,  
14 DISCLOSE, OR CONDUCT ANY ACTION FOR PROFIT OR OTHERWISE ON OR WITH  
15 BIOMETRIC IDENTIFIERS, EXCEPT AS AUTHORIZED BY A CONTRACT WITH A PRIVATE  
16 ENTITY THAT LEGALLY POSSESSES THE BIOMETRIC IDENTIFIERS.~~

~~17 14-4405.~~

18 (A) AT THE REQUEST OF AN INDIVIDUAL OR AN INDIVIDUAL'S LEGALLY  
19 AUTHORIZED REPRESENTATIVE, A PRIVATE ENTITY THAT COLLECTS, USES,  
20 DISCLOSES, OR REDISCLOSES BIOMETRIC DATA OF THE INDIVIDUAL SHALL  
21 DISCLOSE, FREE OF CHARGE, THE BIOMETRIC DATA AND INFORMATION RELATED TO  
22 THE USE OF THE BIOMETRIC DATA TO THE INDIVIDUAL, INCLUDING:

23 (1) THE CATEGORIES OF BIOMETRIC DATA; AND

24 (2) THE PURPOSES FOR WHICH THE PRIVATE ENTITY USED THE  
25 BIOMETRIC DATA.

26 (B) A PRIVATE ENTITY MAY NOT BE REQUIRED TO PROVIDE AN INDIVIDUAL  
27 OR THE INDIVIDUAL'S LEGALLY AUTHORIZED REPRESENTATIVE WITH THE  
28 INFORMATION IN SUBSECTION (A) OF THIS SECTION MORE THAN TWICE DURING ANY  
29 CONSECUTIVE 12-MONTH PERIOD.

~~30 14-4405.~~

~~31 (A) AN INDIVIDUAL ALLEGING A VIOLATION OF THIS SUBTITLE MAY BRING  
32 A CIVIL ACTION AGAINST THE OFFENDING PRIVATE ENTITY.~~

1 ~~(B) AN INDIVIDUAL WHO PREVAILS IN A CIVIL ACTION UNDER THIS SECTION~~  
2 ~~MAY RECOVER FOR EACH VIOLATION;~~

3 ~~(1) AGAINST A PRIVATE ENTITY THAT NEGLIGENTLY VIOLATED A~~  
4 ~~PROVISION OF THIS SUBTITLE, \$1,000 OR ACTUAL DAMAGES, WHICHEVER IS~~  
5 ~~GREATER;~~

6 ~~(2) AGAINST A PRIVATE ENTITY THAT INTENTIONALLY OR~~  
7 ~~RECKLESSLY VIOLATED A PROVISION OF THIS SUBTITLE, \$5,000 OR ACTUAL~~  
8 ~~DAMAGES, WHICHEVER IS GREATER;~~

9 ~~(3) REASONABLE ATTORNEY'S FEES AND COSTS, INCLUDING EXPERT~~  
10 ~~WITNESS FEES AND OTHER LITIGATION EXPENSES; AND~~

11 ~~(4) OTHER RELIEF, INCLUDING AN INJUNCTION, AS THE COURT MAY~~  
12 ~~DETERMINE APPROPRIATE.~~

13 14-4406.

14 (A) EXCEPT AS PROVIDED IN SUBSECTION (B) OF THIS SECTION, A  
15 VIOLATION OF THIS SUBTITLE IS:

16 (1) AN UNFAIR, ABUSIVE, OR DECEPTIVE TRADE PRACTICE WITHIN  
17 THE MEANING OF TITLE 13 OF THIS ARTICLE; AND

18 (2) SUBJECT TO THE ENFORCEMENT AND PENALTY PROVISIONS  
19 CONTAINED IN TITLE 13 OF THIS ARTICLE, EXCEPT FOR § 13-408 OF THIS ARTICLE.

20 (B) IN ADDITION TO THE REMEDIES AVAILABLE IN SUBSECTION (A) OF THIS  
21 SECTION, AN INDIVIDUAL WHO IS AFFECTED BY A VIOLATION OF § 14-4403(A) OF  
22 THIS SUBTITLE MAY BRING AN ACTION AGAINST THE PRIVATE ENTITY IN  
23 ACCORDANCE WITH § 13-408 OF THIS ARTICLE.

24 SECTION 2. AND BE IT FURTHER ENACTED, That this Act shall take effect  
25 October 1, 2022.