
HOUSE BILL 1094

State of Washington

64th Legislature

2015 Regular Session

By Representative Morris

Prefiled 01/09/15. Read first time 01/12/15. Referred to Committee on Technology & Economic Development.

1 AN ACT Relating to biometric identifiers; amending RCW 19.86.080;
2 and adding a new section to chapter 19.215 RCW.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

4 NEW SECTION. **Sec. 1.** A new section is added to chapter 19.215
5 RCW to read as follows:

6 (1) A person may not capture a biometric identifier of an
7 individual for a commercial purpose unless the person:

8 (a) Informs the individual before capturing the biometric
9 identifier; and

10 (b) Receives the individual's consent to capture the biometric
11 identifier.

12 (2) A person who possesses a biometric identifier of an
13 individual that is captured for a commercial purpose:

14 (a) May not sell, lease, or otherwise disclose the biometric
15 identifier to another person unless:

16 (i) The individual consents to the disclosure for identification
17 purposes in the event of the individual's disappearance or death;

18 (ii) The disclosure completes a financial transaction that the
19 individual requested or authorized;

20 (iii) The disclosure is required or expressly permitted by a
21 federal statute or by a state statute; or

1 (iv) The disclosure is made by or to a law enforcement agency for
2 a law enforcement purpose in response to a warrant;

3 (b) Shall store, transmit, and protect from disclosure the
4 biometric identifier using reasonable care and in a manner that is
5 the same as or more protective than industry standards relating to
6 administrative, technical, and physical safeguards for digital
7 copies, biometric identifiers, and other personal identifying
8 information; and

9 (c) Must retain the biometric identifier no longer than is
10 legally necessary as required by statute, rule, or public records
11 retention schedule specified under federal, state, or local
12 authority, except as provided by subsection (3) of this section.

13 (3)(a) If a biometric identifier captured for a commercial
14 purpose has been collected for contractual purposes, the purpose for
15 collecting the identifier under subsection (2)(c) of this section
16 expires upon termination of the continuous contractual relationship.

17 (b) If a biometric identifier captured for a commercial purpose
18 has been collected for security purposes by an employer, the purpose
19 for collecting the identifier under subsection (2)(c) of this section
20 is presumed to expire on termination of the employment relationship.

21 (4) For purposes of this section, "biometric identifier" means a
22 characteristic, whether biological, behavioral, or both, that enables
23 automated recognition of an individual and is inherently sensitive,
24 including but not limited to fingerprints, DNA, hand geometry, palm
25 print, and iris scan. "Biometric identifier" also includes less
26 sensitive identifiers, including, but not limited to facial imaging,
27 voice, and gait when used specifically for identification purposes.

28 (5) The legislature finds that the practices covered by this
29 section are matters vitally affecting the public interest for the
30 purpose of applying the consumer protection act, chapter 19.86 RCW. A
31 violation of this chapter is not reasonable in relation to the
32 development and preservation of business and is an unfair or
33 deceptive act in trade or commerce and an unfair method of
34 competition for the purpose of applying the consumer protection act,
35 chapter 19.86 RCW.

36 **Sec. 2.** RCW 19.86.080 and 2007 c 66 s 1 are each amended to read
37 as follows:

38 (1)(a) The attorney general may bring an action in the name of
39 the state, or as *parens patriae* on behalf of persons residing in the

1 state, against any person to restrain and prevent the doing of any
2 act herein prohibited or declared to be unlawful; and, except as
3 provided in (b) of this subsection, the prevailing party may, in the
4 discretion of the court, recover the costs of said action including a
5 reasonable attorney's fee.

6 (b) In an action brought by the attorney general in the name of
7 the state, or as parens patriae on behalf of persons residing in the
8 state, to restrain and prevent a violation of section 1 of this act,
9 if the attorney general prevails, costs and reasonable attorneys'
10 fees may only be awarded to the attorney general as prevailing party,
11 and may not be awarded to the defendant.

12 (2) The court may make such additional orders or judgments as may
13 be necessary to restore to any person in interest any moneys or
14 property, real or personal, which may have been acquired by means of
15 any act herein prohibited or declared to be unlawful.

16 (3) Upon a violation of RCW 19.86.030, 19.86.040, 19.86.050, or
17 19.86.060, the court may also make such additional orders or
18 judgments as may be necessary to restore to any person in interest
19 any moneys or property, real or personal, which may have been
20 acquired, regardless of whether such person purchased or transacted
21 for goods or services directly with the defendant or indirectly
22 through resellers. The court shall exclude from the amount of
23 monetary relief awarded in an action pursuant to this subsection any
24 amount that duplicates amounts that have been awarded for the same
25 violation. The court should consider consolidation or coordination
26 with other related actions, to the extent practicable, to avoid
27 duplicate recovery.

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