

By: McCall

H.B. No. 3186

A BILL TO BE ENTITLED

1 AN ACT

2 relating to the collection and use of biometric identifiers.

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

4 SECTION 1. Section 503.001, Business & Commerce Code, is
5 amended by amending Subsection (c) and adding Subsections (c-1) and
6 (c-2) to read as follows:

7 (c) A person who possesses a biometric identifier of an
8 individual that is captured for a commercial purpose:

9 (1) may not sell, lease, or otherwise disclose the
10 biometric identifier to another person unless:

11 (A) the individual consents to the disclosure for
12 identification purposes in the event of the individual's
13 disappearance or death;

14 (B) the disclosure completes a financial
15 transaction that the individual requested or authorized;

16 (C) the disclosure is required or permitted by a
17 federal statute or by a state statute other than Chapter 552,
18 Government Code; or

19 (D) the disclosure is made by or to a law
20 enforcement agency for a law enforcement purpose in response to a
21 warrant; ~~and~~

22 (2) shall store, transmit, and protect from disclosure
23 the biometric identifier using reasonable care and in a manner that
24 is the same as or more protective than the manner in which the

1 person stores, transmits, and protects any other confidential
2 information the person possesses; and

3 (3) shall destroy the biometric identifier within a
4 reasonable time, but not later than the first anniversary of the
5 date the purpose for collecting the identifier expires, except as
6 provided by Subsection (c-1).

7 (c-1) If a biometric identifier of an individual is used in
8 connection with an instrument or document that is required by
9 another law to be maintained for a period longer than the period
10 prescribed by Subsection (c)(3), the person who possesses the
11 biometric identifier shall destroy the biometric identifier within
12 a reasonable time, but not later than the first anniversary of the
13 date the instrument or document is no longer required to be
14 maintained by law.

15 (c-2) If a biometric identifier has been collected for
16 security purposes by an employer, the purpose for collecting the
17 identifier under Subsection (c)(3) is presumed to expire on
18 termination of the employment relationship.

19 SECTION 2. (a) The changes in law made by this Act apply to
20 a biometric identifier possessed by a person:

21 (1) on or after the effective date of this Act; or

22 (2) before the effective date of this Act, subject to
23 Subsection (b) of this section.

24 (b) A person who before the effective date of this Act
25 possesses a biometric identifier that is required to be destroyed
26 because of the changes in law made by this Act shall destroy the
27 biometric identifier on or before October 1, 2009.

1 SECTION 3. This Act takes effect September 1, 2009.