

1-1 By: McCall (Senate Sponsor - Duncan) H.B. No. 3186
1-2 (In the Senate - Received from the House May 18, 2009;
1-3 May 19, 2009, read first time and referred to Committee on Business
1-4 and Commerce; May 22, 2009, reported favorably by the following
1-5 vote: Yeas 8, Nays 0; May 22, 2009, sent to printer.)

1-6 A BILL TO BE ENTITLED
1-7 AN ACT

1-8 relating to the collection and use of biometric identifiers.

1-9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-10 SECTION 1. Section 503.001, Business & Commerce Code, is
1-11 amended by amending Subsection (c) and adding Subsections (c-1) and
1-12 (c-2) to read as follows:

1-13 (c) A person who possesses a biometric identifier of an
1-14 individual that is captured for a commercial purpose:

1-15 (1) may not sell, lease, or otherwise disclose the
1-16 biometric identifier to another person unless:

1-17 (A) the individual consents to the disclosure for
1-18 identification purposes in the event of the individual's
1-19 disappearance or death;

1-20 (B) the disclosure completes a financial
1-21 transaction that the individual requested or authorized;

1-22 (C) the disclosure is required or permitted by a
1-23 federal statute or by a state statute other than Chapter 552,
1-24 Government Code; or

1-25 (D) the disclosure is made by or to a law
1-26 enforcement agency for a law enforcement purpose in response to a
1-27 warrant; ~~and~~

1-28 (2) shall store, transmit, and protect from disclosure
1-29 the biometric identifier using reasonable care and in a manner that
1-30 is the same as or more protective than the manner in which the
1-31 person stores, transmits, and protects any other confidential
1-32 information the person possesses; and

1-33 (3) shall destroy the biometric identifier within a
1-34 reasonable time, but not later than the first anniversary of the
1-35 date the purpose for collecting the identifier expires, except as
1-36 provided by Subsection (c-1).

1-37 (c-1) If a biometric identifier of an individual is used in
1-38 connection with an instrument or document that is required by
1-39 another law to be maintained for a period longer than the period
1-40 prescribed by Subsection (c)(3), the person who possesses the
1-41 biometric identifier shall destroy the biometric identifier within
1-42 a reasonable time, but not later than the first anniversary of the
1-43 date the instrument or document is no longer required to be
1-44 maintained by law.

1-45 (c-2) If a biometric identifier has been collected for
1-46 security purposes by an employer, the purpose for collecting the
1-47 identifier under Subsection (c)(3) is presumed to expire on
1-48 termination of the employment relationship.

1-49 SECTION 2. (a) The changes in law made by this Act apply to
1-50 a biometric identifier possessed by a person:

1-51 (1) on or after the effective date of this Act; or

1-52 (2) before the effective date of this Act, subject to
1-53 Subsection (b) of this section.

1-54 (b) A person who before the effective date of this Act
1-55 possesses a biometric identifier that is required to be destroyed
1-56 because of the changes in law made by this Act shall destroy the
1-57 biometric identifier on or before October 1, 2009.

1-58 SECTION 3. This Act takes effect September 1, 2009.

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