

SENATE AMENDMENTS

2nd Printing

By: McCall

H.B. No. 3186

A BILL TO BE ENTITLED

AN ACT

relating to the collection and use of biometric identifiers.

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

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

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

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

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

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

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

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

(2) shall store, transmit, and protect from disclosure the biometric identifier using reasonable care and in a manner that 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.

ADOPTED

MAY 25 2009

Atty Gen
Secretary of the Senate

FLOOR AMENDMENT NO. 1

BY: *Robert Duncan*

1 Amend H.B. No. 3186 (senate committee report) as follows:

2 (1) In SECTION 1 of the bill, in added Section 503.001(c-1),
3 Business & Commerce Code (page 1, line 37), between "individual"
4 and "is", insert "captured for a commercial purpose".

5 (2) In SECTION 1 of the bill, in added Section 503.001(c-2),
6 Business & Commerce Code (page 1, line 45), between "identifier"
7 and "has", insert "captured for a commercial purpose".

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 28, 2009

TO: Honorable Joe Straus, Speaker of the House, House of Representatives

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3186 by McCall (Relating to the collection and use of biometric identifiers.), **As Passed
2nd House**

No significant fiscal implication to the State is anticipated.

The bill would amend the Business and Commerce Code and provides that a person who possesses a biometric identifier of an individual that is captured for commercial purposes may not sell, lease or otherwise disclose a biometric identifier unless the individual consents to the disclosure for identification purposes in the event of the individual's disappearance or death. In addition, the bill requires a person who has obtained a biometric identifier for the purpose of selling, leasing or otherwise disclosing, to destroy the biometric identifier within one year of the date the purpose for having collected the identifier expires. The Office of the Attorney General indicates that any legal work resulting from the provisions of the bill could be reasonably absorbed with current state resources

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, JRO, JM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 20, 2009

TO: Honorable Troy Fraser, Chair, Senate Committee on Business & Commerce

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3186 by McCall (Relating to the collection and use of biometric identifiers.), **As Engrossed**

No significant fiscal implication to the State is anticipated.

The bill would amend the Business and Commerce Code and provides that a person who possesses a biometric identifier of an individual that is captured for commercial purposes may not sell, lease or otherwise disclose a biometric identifier unless the individual consents to the disclosure for identification purposes in the event of the individual's disappearance or death. In addition, the bill requires a person who has obtained a biometric identifier for the purpose of selling leasing or otherwise disclosing, to destroy the biometric identifier within one year of the date the purpose for having collected the identifier expires. The Office of the Attorney General indicates that any legal work resulting from the provisions of the bill could be reasonably absorbed with current state resources

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, JRO, JM

LEGISLATIVE BUDGET BOARD

Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

May 8, 2009

TO: Honorable Joe Deshotel, Chair, House Committee on Business & Industry

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3186 by McCall (Relating to the collection and use of biometric identifiers.), **Committee Report 1st House, Substituted**

No significant fiscal implication to the State is anticipated.

The bill would amend the Business and Commerce Code and provides that a person who possesses a biometric identifier of an individual that is captured for commercial purposes may not sell, lease or otherwise disclose a biometric identifier unless the individual consents to the disclosure for identification purposes in the event of the individual's disappearance or death. In addition, the bill requires a person who has obtained a biometric identifier for the purpose of selling leasing or otherwise disclosing, to destroy the biometric identifier within one year of the date the purpose for having collected the identifier expires. The Office of the Attorney General indicates that any legal work resulting from the provisions of the bill could be reasonably absorbed with current state resources

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, JRO, JM

LEGISLATIVE BUDGET BOARD
Austin, Texas

FISCAL NOTE, 81ST LEGISLATIVE REGULAR SESSION

April 7, 2009

TO: Honorable Joe Deshotel, Chair, House Committee on Business & Industry

FROM: John S. O'Brien, Director, Legislative Budget Board

IN RE: HB3186 by McCall (Relating to the collection and use of biometric identifiers.), **As Introduced**

No significant fiscal implication to the State is anticipated.

The bill would amend the Business and Commerce Code and removes the provision allowing a person to sell, lease or otherwise disclose a biometric identifier if the individual consents to the disclosure. In addition, the bill requires a person who has obtained a biometric identifier for the purpose of selling leasing or otherwise disclosing, to destroy the biometric identifier within one year of the date the purpose for having collected the identifier expires. The Office of the Attorney General indicates that any legal work resulting from the provision of the bill could be reasonably absorbed with current state resources.

Local Government Impact

No significant fiscal implication to units of local government is anticipated.

Source Agencies: 302 Office of the Attorney General

LBB Staff: JOB, JRO, JM