

**House Bill 3186**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

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

(c-1) If a biometric identifier of an individual is used in

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(c-1) If a biometric identifier of an individual **captured**

CONFERENCE

**House Bill 3186**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

connection with an instrument or document that is required by another law to be maintained for a period longer than the period prescribed by Subsection (c)(3), the person who possesses the biometric identifier shall destroy the biometric identifier within a reasonable time, but not later than the first anniversary of the date the instrument or document is no longer required to be maintained by law.

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

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

- (1) on or after the effective date of this Act; or
- (2) before the effective date of this Act, subject to Subsection (b) of this section.

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

SENATE VERSION

for a commercial purpose is used in connection with an instrument or document that is required by another law to be maintained for a period longer than the period prescribed by Subsection (c)(3), the person who possesses the biometric identifier shall destroy the biometric identifier within a reasonable time, but not later than the first anniversary of the date the instrument or document is no longer required to be maintained by law.

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

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CONFERENCE

**House Bill 3186**  
Senate Amendments  
Section-by-Section Analysis

HOUSE VERSION

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

SENATE VERSION

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CONFERENCE