

ASSEMBLY, No. 5599

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED JUNE 8, 2023

Sponsored by:

Assemblyman ROBERT J. KARABINCHAK

District 18 (Middlesex)

Assemblyman LOUIS D. GREENWALD

District 6 (Burlington and Camden)

Assemblywoman YVONNE LOPEZ

District 19 (Middlesex)

SYNOPSIS

Prohibits use of biometric surveillance system by business entity under certain circumstances.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 6/26/2023)

1 AN ACT concerning biometric surveillance systems and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).

3

4 **BE IT ENACTED** by the Senate and General Assembly of the State
5 of New Jersey:

6

7 1. As used in this section:

8 “Biometric surveillance system” means any computer software
9 that performs facial recognition or other remote biometric
10 recognition.

11 “Business entity” means any natural or legal person, business
12 corporation, professional services corporation, limited liability
13 company, partnership, limited partnership, business trust,
14 association, or any other legal commercial entity organized under
15 the laws of this State or any other state or foreign jurisdiction.

16 “Facial recognition” means an automated or semi-automated
17 process that assists in identifying a person or capturing information
18 about a person based on the physical characteristics of the person’s
19 face, or that logs characteristics of a person’s face, head, or body to
20 infer emotion, associations, activities, or location of the person.

21

22 2. a. It shall be an unlawful practice and a violation of
23 P.L.1960, c.39 (C.56:8-1 et seq.) for a business entity to use any
24 biometric surveillance system on a consumer at the physical
25 premises of the business entity, except as provided in subsection c.
26 of this section.

27 b. A business entity may use a biometric surveillance system
28 on a consumer at the physical premises of the business entity, if:

29 (1) the business entity provides clear and conspicuous notice to
30 the consumer regarding its use of a biometric surveillance system;
31 and

32 (2) the biometric surveillance system is used for a lawful
33 purpose.

34 The business entity may satisfy the notice requirement of
35 paragraph (1) of this section by posting a sign in a conspicuous
36 location at the perimeter of any area where a biometric surveillance
37 system is being used.

38 c. If a business entity uses information obtained through a
39 biometric surveillance system to deny a consumer access to its
40 premises or to remove a consumer from its premises, the business
41 entity shall provide the consumer with a detailed explanation
42 regarding its actions and the criteria used by the business entity in
43 making its determination.

44 d. Upon being informed of a first violation, a business entity
45 shall comply with the provisions of this act within 30 days. Upon
46 demonstrating compliance, any penalty provided pursuant to
47 P.L.1960, c.39 (C.56:8-1 et seq.) shall be waived.

1 e. In accordance with the Administrative Procedure Act,
2 P.L.1968, c.410 (C.52:14B-1 et seq.), the Director of the Division
3 of Consumer Affairs may promulgate rules and regulations to
4 effectuate the provisions of this section.

5
6 3. a. A business entity shall not sell, lease, trade, share, or
7 otherwise profit from information obtained through the business
8 entity's use of a biometric surveillance system on a consumer.

9 b. A violation of this section shall be an unlawful practice and
10 a violation of P.L.1960, c.39 (C.56:8-1 et seq.).

11
12 4. This act shall take effect on the first day of the sixth month
13 following enactment.

14
15
16 STATEMENT

17
18 This bill prohibits the use of a biometric surveillance system on a
19 consumer under certain circumstances.

20 Under the bill, a business entity is prohibited from using a
21 biometric surveillance system on a consumer at the physical
22 premises of the business entity, unless: (1) the business entity
23 provides clear and conspicuous notice to the consumer regarding its
24 use of a biometric surveillance system; and (2) the biometric
25 surveillance system is used for a lawful purpose.

26 The business entity may satisfy the notice requirement by
27 posting a sign in a conspicuous location at the perimeter of any area
28 where a biometric surveillance system is being used. However,
29 under the bill, if a business entity uses information obtained through
30 a biometric surveillance system to deny a consumer access to its
31 premises or to remove a consumer from its premises, the business
32 entity is required to provide the consumer with a detailed
33 explanation regarding its actions and the criteria used by the
34 business entity in making its determination. The bill provides that a
35 business entity will not be liable for a first violation if, within thirty
36 days, the business entity demonstrates compliance with the
37 provisions of this section.

38 In addition, the bill prohibits a business entity from selling,
39 leasing, trading, sharing, or otherwise profiting from information
40 obtained through the business entity's use of a biometric
41 surveillance system on a consumer.

42 A violation of the bill's provisions is an unlawful practice under
43 the consumer fraud act, punishable by a monetary penalty of not
44 more than \$10,000 for a first offense and not more than \$20,000 for
45 any subsequent offense. In addition, violations may result in cease
46 and desist orders issued by the Attorney General, the assessment of
47 punitive damages, and the awarding of treble damages and costs to
48 the injured party.