

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 744

BY WAYS AND MEANS COMMITTEE

AN ACT

RELATING TO BIOMETRIC IDENTIFIERS; AMENDING TITLE 48, IDAHO CODE, BY THE ADDITION OF A NEW CHAPTER 21, TITLE 48, IDAHO CODE, TO ESTABLISH PROVISIONS REGARDING THE CAPTURE OR USE OF BIOMETRIC IDENTIFIERS; AND DECLARING AN EMERGENCY AND PROVIDING AN EFFECTIVE DATE.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Title 48, Idaho Code, be, and the same is hereby amended by the addition thereto of a NEW CHAPTER, to be known and designated as Chapter 21, Title 48, Idaho Code, and to read as follows:

CHAPTER 21

CAPTURE OR USE OF BIOMETRIC IDENTIFIERS

48-2101. CAPTURE OR USE OF BIOMETRIC IDENTIFIERS. (1) As used in this section:

(a) "Artificial intelligence" means any machine-based system that, for any explicit or implicit objective, infers from the inputs the system receives how to generate outputs, including content, decisions, predictions, or recommendations, that can influence physical or virtual environments.

(b) "Biometric identifier" means a retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry.

(2) (a) A person may not capture a biometric identifier of an individual for a commercial purpose unless the person:

(i) Informs the individual before capturing the biometric identifier; and

(ii) Receives the individual's consent to capture the biometric identifier.

(b) For the purposes of this subsection, an individual has not been informed of and has not provided consent for the capture or storage of a biometric identifier for a commercial purpose based solely on the existence of an image or other media containing one (1) or more biometric identifiers of the individual on the internet or other publicly available source unless the image or other media was made publicly available by the individual to whom the biometric identifiers relate.

(3) Persons or entities possessing a biometric identifier of an individual that is captured for a commercial purpose:

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

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

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

1 (iii) The disclosure is required or permitted by state or federal  
2 law; or  
3 (iv) The disclosure is made by or to a law enforcement agency for a  
4 law enforcement purpose in response to a warrant;

5 (b) Shall store, transmit, and protect from disclosure the biometric  
6 identifier using reasonable care and in a manner that is the same as or  
7 more protective than the manner in which the person stores, transmits,  
8 and protects any other confidential information the person possesses;

9 (c) Shall destroy the biometric identifier within a reasonable time,  
10 but no later than the first anniversary of the date the purpose for col-  
11 lecting the identifier expires, except as provided by subsection (4) of  
12 this section; and

13 (d) Shall provide a method for an individual to revoke consent to the  
14 storage and transmission of a biometric identifier at any time and shall  
15 immediately destroy the biometric identifier upon receiving a revoca-  
16 tion of consent unless maintaining the biometric identifier is required  
17 by another law.

18 (4) If a biometric identifier captured for a commercial purpose is used  
19 in connection with an instrument or document that is required by another law  
20 to be maintained for a period longer than the period prescribed by subsec-  
21 tion (3) (c) of this section, the person who possesses the biometric identi-  
22 fier shall destroy the biometric identifier within a reasonable time, but no  
23 later than the first anniversary of the date the instrument or document is no  
24 longer required to be maintained by law.

25 (5) If a biometric identifier captured for a commercial purpose has  
26 been collected for security purposes by an employer, the purpose for col-  
27 lecting the identifier pursuant to subsection (3) (c) of this section is  
28 presumed to expire on termination of the employment relationship.

29 (6) A person who violates the provisions of this section is subject to  
30 a civil penalty of not to exceed twenty-five thousand dollars (\$25,000) for  
31 each violation. The attorney general may bring an action to recover civil  
32 penalties pursuant to this subsection.

33 (7) The provisions of this section do not apply to:

34 (a) Voiceprint data retained by a financial institution or an affili-  
35 ate of a financial institution, as those terms are defined by 15 U.S.C.  
36 6809;

37 (b) The processing or storage of biometric identifiers involved in  
38 the developing, training, evaluating, disseminating, or otherwise of-  
39 fering of artificial intelligence models or systems, unless a system  
40 is used or deployed for the purpose of uniquely identifying a specific  
41 individual; or

42 (c) The development or deployment of an artificial intelligence model  
43 or system for the purposes of:

44 (i) Preventing, detecting, protecting against, or responding to  
45 security incidents, identity theft, fraud, harassment, malicious  
46 or deceptive activities, or any other illegal activity;

47 (ii) Preserving the integrity or security of a system; or

48 (iii) Investigating, reporting, or prosecuting a person responsi-  
49 ble for a security incident, identity theft, fraud, harassment, a  
50 malicious or deceptive activity, or any other illegal activity.

1           (8) If a biometric identifier captured for the purpose of training an  
2 artificial intelligence system is subsequently used for a commercial pur-  
3 pose not described by subsection (7) of this section, the person possessing  
4 the biometric identifier is subject to:

5           (a) The provisions of this section regarding the possession and de-  
6 struction of a biometric identifier; and

7           (b) The penalties associated with a violation of this section.

8           SECTION 2. An emergency existing therefor, which emergency is hereby  
9 declared to exist, this act shall be in full force and effect on and after  
10 July 1, 2026.