AN ACT relating to collection and use of biometric identifiers; providing a civil penalty.

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

SECTION 1. Subchapter D, Chapter 35, Business & Commerce Code, is amended by adding Section 35.50 to read as follows:

Sec. 35.50. BIOMETRIC IDENTIFIER. (a) In this section, "biometric identifier" means a retina or iris scan, fingerprint, voiceprint, or record of hand or face geometry.

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

(1) informs the individual before capturing the biometric identifier; and

(2) receives the individual's consent to capture the biometric identifier.

(c) A person who possesses a biometric identifier of an individual:

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

(A) the individual consents to the disclosure;

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

(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; 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 the person's other confidential information.

(d) A person who violates this section is subject to a civil penalty of not more than $25,000 for each violation. The attorney general may institute an action to recover the civil penalty.

SECTION 2. Subtitle A, Title 5, Government Code, is amended by adding Chapter 559 to read as follows:

CHAPTER 559. BIOMETRIC IDENTIFIER

Sec. 559.001. DEFINITIONS. In this chapter:

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

(2) "Governmental body" has the meaning assigned by Section 552.003, except that the term includes each entity within or created by the judicial branch of state government.

Sec. 559.002. DISCLOSURE OF BIOMETRIC IDENTIFIER. A governmental body that possesses a biometric identifier of an individual:

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

(A) the individual consents to the disclosure;
(B) the disclosure is required or permitted by a federal statute or by a state statute other than Chapter 552; or
(C) the disclosure is made by or to a law enforcement agency for a law enforcement purpose; 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 governmental body stores, transmits, and protects its other confidential information.

Sec. 559.003. APPLICATION OF CHAPTER 552. A biometric identifier in the possession of a governmental body is exempt from disclosure under Chapter 552.

SECTION 3. This Act takes effect September 1, 2001.