



March 29, 2022

The Honorable Thomas Umberg
Chair, Judiciary Committee
1021 O Street, Room 3240
Sacramento, CA 95814

Re: SB 1189 – Biometric Information Privacy Act (SUPPORT)

Dear Senator Umberg,

Our organizations work in the state of California to improve privacy and we write today to support SB 1189. SB 1189 would prohibit private entities from collecting or disclosing biometric data without first acquiring informed affirmative consent. Furthermore, it would stop private entities from selling, leasing, trading, using for advertising purposes, or otherwise profiting from a person’s biometric information. This bill would ensure that biometric information is used in a responsible manner that prioritizes individual privacy by expanding control over highly personal and sensitive information.

Biometric information relates to biological, physiological, and behavioral categories of data that can establish individual identity. These data include immutable and highly distinctive traits—the ridges of our fingerprints, the texture and color of our eyes, or the geometric attributes of our faces such as how close our eyes are or the distance between one’s nose and chin¹. Companies often claim that data derived from our bodies can be used to infer highly intimate and intangible traits, such as preferences and emotion²⁻⁵. While those claims are often spurious, it has sparked a flood of companies interested in collecting this information to augment processes such as automated authentication, surveillance, and targeted marketing⁶⁻⁸.

This wide use of biometrics comes with great individual and societal risks. Steady improvements in technology make biometric identification through mobile or covert means more possible. This can have a chilling effect on free speech, free association, and other cornerstones of a democratic society by erasing our ability to go about our daily lives without threat of surveillance. Such threats also extend to the digital world; biometric information can facilitate price point discrimination and targeted advertising based on race, preferences, emotion, etc. These highly curated interactions can heighten socioeconomic disparities that disproportionately affect minority communities while nudging consumer behavior towards substandard, even harmful, routines.

Californians voted to expand the California Consumer Privacy Act—passing the California Privacy Rights Act (CPRA)—to allow consumers to limit the use and disclosure of their biometric data. However, the startlingly rapid growth in biometrics is already outpacing current privacy law. Unchecked, the threat will only continue to grow; the global biometrics market is estimated to reach \$82.8 billion by 2027. Without additional privacy protections to supplement the CPRA, we cede control of data irrevocably tied to our identities to private entities that sell and trade it like any other commodity. SB 1189 would strengthen the privacy protections already in place and ensure that our law keeps pace with the rapid expansion of biometrics.

For these reasons, our organization support SB 1189 and respectfully ask for your “aye” vote on this bill.

Sincerely,

Nelson Santiago, Consumer Action
Susan Grant, Consumer Federation of America
Robert Herrell, Consumer Federation of California
David Monahan, Fairplay
Vinhcent Le, The Greenlining Institute
Tracy Rosenberg, Media Alliance and Oakland Privacy
Hayley Tsukayama, Electronic Frontier Foundation
Emory Roane, Privacy Rights Clearinghouse

cc: Senator Bob Wieckowski

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