

LOCAL LAW INTRO. 5-1 2026

**A LOCAL LAW TO BE ENACTED
BY THE ERIE COUNTY LEGISLATURE
IN THE COUNTY OF ERIE**

**LOCAL LAW INTRO. – NO. 5-1 2026
LOCAL LAW – NO. _____ - 2026**

A LOCAL LAW prohibiting the collection, storage, procurement, use, and sale or other monetization of biometric identifier information by any commercial establishment in commercial settings within Erie County.

Section 1. Title

This law shall be entitled and known as the "Biometrics Transparency and Privacy Act".

Section 2. Legislative Findings and Intent

The Erie County Legislature finds that biometric identifier technologies are increasingly used in commercial settings by commercial establishments for purposes including, but not limited to, customer authentication, building access, and fraud prevention. The Legislature also finds that biometric identifier information is uniquely sensitive because it is derived from a person's physical or biological characteristics and poses serious privacy and security risks to individuals if compromised.

The Erie County Legislature further finds that the collection, storage, procurement, use, and sale or other monetization of biometric identifier information is inconsistent with basic privacy expectations. This local law is intended to promote transparency and protect the public by prohibiting the collection, storage, procurement, use, and sale or other monetization of biometric identifier information.

Section 3. Definitions

As used herein, the following terms have the following meanings:

1. **Biometric Identifier Information:** The term "Biometric Identifier Information" or "Biometric Information" refers to data that depict or describe physical, biological, or behavioral traits, characteristics, or measurements of or relating to an identified or identifiable person's body regardless of how it is captured, converted, stored, or shared. Biometric information includes, but is not limited to, depictions, images, descriptions, or recordings of an individual's facial features, iris or retina, finger or handprints, voice, genetics, or characteristic movements or gestures (e.g., gait or typing pattern). Biometric Information also includes data derived from such depictions, images, descriptions, or recordings, to the extent that it would be reasonably possible to identify the person from whose information the data had been derived.

2. **Commercial Establishment:** The term "Commercial Establishment" means any person, firm, partnership, association, corporation, company, organization, or other entity that operates a place of business within Erie County and offers goods or services to the public, whether for profit or not for profit. The term "Commercial Establishment" shall not be construed to include any government agency, employees, or agents acting within the scope of their governmental duties.
3. **Commercial Settings:** The term "Commercial Settings" means any physical location within Erie County where public accommodations, advantages, facilities, or privileges in the nature of goods, services, lodgings, amusements, transportation or otherwise are offered to the public. "Commercial Settings" do not include institutions, bona fide clubs, private residences, or places of accommodation that are distinctly private by nature.
4. **Clearly and Conspicuously Posted:** The term "Clearly and Conspicuously Posted" means that the written notice and destruction policy described in Section 5(a) below must be posted within the physical location of the Commercial Establishment, in a conspicuous location, using lettering and wording that is easily visible and understandable to the average Customer.
5. **Customer:** The term "Customer" means a purchaser or lessee, or a prospective purchaser or lessee, of goods or services from a Commercial Establishment in a Commercial Setting.
6. **Director:** The term "Director" means the Director of the Erie County Department of Public Advocacy Division of Consumer Protection or any successor officer or office performing substantially similar functions.
7. **Destruction Policy:** The term "Destruction Policy" means a written document, made available to the public outlining the Biometric Identifier Information collected, the date(s) when the information was collected, and the date when such information will be permanently deleted or destroyed.
8. **Financial Institution:** The term "Financial Institution" means a bank, trust company, national bank, savings bank, federal mutual savings bank, savings and loan association, federal savings and loan association, federal mutual savings and loan association, credit union, federal credit union, branch of a foreign banking corporation, public pension fund, retirement system, securities broker, securities dealer or securities firm, but does not include a Commercial Establishment whose primary business is the retail sale of goods and services to customers and provides limited financial services such as the issuance of credit cards or in-store financing to customers.

Section 4. Prohibition

Except as provided in Section 7 below, Commercial Establishments are prohibited from collecting, storing, procuring, using, and selling or otherwise monetizing a Customer's Biometric Identifier Information in Commercial Settings.

Section 5. Applicability to Commercial Establishments in Possession of Customer Biometric Information Prior to the Effective Date of this Local Law

A Commercial Establishment in possession of Biometric Information prior to the effective date of this local law must:

- a. Provide written notice to the Director that the Commercial Establishment is in possession of Biometric Information no later than thirty (30) days from the effective date of this local law. Such notice must include a summary of the amount and type of Biometric Information in possession of the Commercial Establishment and establish a Destruction Policy, consistent with subsection (c) below, detailing the method and timing for permanent deletion or destruction of all such Biometric Information. Such notice must be made available to the public and Clearly and Conspicuously Posted within the Commercial Establishment.
- b. Store, protect from disclosure, and prevent transmission to third parties of all biometric identifiers and Biometric Information.
- c. Provide an affidavit to the Director, certifying the permanent deletion or destruction of all Biometric Information in the Commercial Establishment's possession within thirty (30) days of providing notice as required in subsection (a) above.

Section 6. Enforcement; Notices of Violation; Cure Period; Civil Penalties; Injunctive Relief

- a. Primary enforcement authority. This local law shall be enforced by the Director. The Director may receive complaints, conduct investigations, and promulgate rules necessary to implement this local law, including rules establishing the form, content, and placement requirements for the written policy and notice to the Director required by Section 5.
- b. Notice of violation; cure period for violations of Section 5.
 - i. For an alleged violation of Section 5, the Director shall issue a written notice of violation to the offending Commercial Establishment which describes the alleged noncompliance and provides a cure period of thirty (30) days from the date of the notice of violation.
 - ii. If the Commercial Establishment cures the violation within the cure period and provides written certification of cure in a form acceptable to the Director, the Director may close the matter without civil penalty.
- c. Civil penalties.
 - i. Any Commercial Establishment that violates Section 4, may be subject to a civil penalty of one thousand dollars (\$1,000) per day for each day of violation after the cure period has ended, and/or any such fees, penalties, or remedies as may be awarded by a court of competent jurisdiction.
 - ii. Any Commercial Establishment that violates Section 5 may be subject to a civil penalty of five thousand dollars (\$5,000) per day for each day of violation, and/or

any such fees, penalties, or remedies as may be awarded by a court of competent jurisdiction.

- d. Civil enforcement; injunctive relief. The Director may refer matters to the Erie County Attorney, who is authorized to commence an action or proceeding in a court of competent jurisdiction to recover civil penalties and to seek injunctive or other equitable relief to enforce the provisions herein; and/or the Director may refer matters to the New York State Attorney General's Office for further action.
- e. Right of Action. Nothing in this provision shall obviate, prevent, or otherwise alter, a Customer's right to commence a separate and distinct civil action or proceeding for injunctive relief, damages, and other appropriate relief in law or equity against a Commercial Establishment who violates the provisions herein. No agreement entered into as part of any settlement or agreement to cure violations between Erie County and any Commercial Establishment shall be binding upon the Customer.

Section 7. Applicability and Exceptions

The prohibitions in Section 4 and the requirements in Section 5 above do not apply:

- a. To the extent necessary for a Commercial Establishment to comply with federal, state, or local laws.
- b. For user verification purposes by an individual to access the individual's own personal or employer issued communication and electronic devices.
- c. In automatic face detection services utilized in social media applications.
- d. In the event that disclosure is required pursuant to a valid warrant or subpoena issued by a court of competent jurisdiction
- e. Where photographs or video recordings: (i) are not analyzed by software or digital or computing applications that identify, or that assist with the identification of, individuals based on physiological or biological characteristics, and (ii) the images or video are not shared with, sold, leased, or otherwise distributed to third parties other than as required by law.
- f. Government exemption: Nothing in this local law shall apply to the collection, storage, sharing, or use of biometric identifier information by government agencies, employees, or agents acting within the scope of their governmental duties.
- g. Financial Institutions: Nothing in this local law shall apply to the collection, storage, sharing, or use of biometric identifier information by Financial Institutions and their employees, or agents acting within the scope of their duties.

Section 8. Publication

To the extent practicable, and consistent with New York State Municipal Home Rule Law and the Erie County Charter, the Director shall cause the language of this local law to be made available, in conjunction with any other relevant County agency or office, by posting the Local

Law on County websites or through any other such means as may be feasible, to inform Commercial Establishments likely to be affected by this local law.

Section 9. Severability

If any clause, sentence, paragraph, subdivision, section, or part of this local law shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.

Section 10. Effective Date

This local law shall take effect upon filing with the New York State Secretary of State.

Sponsor: Legislator Lawrence J. Dupre

