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SYNOPSIS:

This bill would prohibit certain covered entities that maintain biological data or neural data from transferring or disclosing a consumer's biological data or neural data to a third party without the express consent of the consumer.

This bill would define the term "covered entity" to include any health and fitness application that collects, processes, uses, shares, sells, or generates a consumer's biological data or neural data.

This bill would prohibit a covered entity from using a consumer's biological data or neural data for a purpose other than what is necessary to perform the services or provide the goods requested by the consumer.

This bill would prohibit a covered entity from marketing to a consumer based on the consumer's biological data or neural data.

This bill would require a covered entity to notify a consumer before his or her biological data or neural data is otherwise transferred, disclosed, or used, and would provide the consumer the ability to limit or prevent the transfer, disclosure, or use of the data.

This bill would exclude certain uses of



29 biological and neural data from the requirements of the  
30 bill.

31 This bill would also allow the Office of the  
32 Attorney General to enforce this act and levy a civil  
33 penalty of \$3,000 per violation.

34

35

36 A BILL

37 TO BE ENTITLED

38 AN ACT

39

40 Relating to consumer protections; to prohibit certain  
41 health and fitness applications from disclosing, transferring,  
42 or taking certain other actions with regard to a consumer's  
43 biological data or neural data without the consumer's express  
44 consent, with exceptions; to authorize the Office of the  
45 Attorney General to enforce; and to provide a civil penalty  
46 for violations.

47 BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

48 Section 1. For the purposes of this act, the following  
49 terms have the following meanings:

50 (1) BIOLOGICAL DATA. Data generated by: (i) the  
51 technological processing, measurement, or analysis of an  
52 individual's biological, genetic, biochemical, physiological,  
53 or neural properties, compositions, or activities; or (ii) an  
54 individual's body or bodily functions, which are used or  
55 intended to be used for identification purposes.

56 (2) CONSUMER. Any individual who is an Alabama



57 resident.

58 (3) COVERED ENTITY. The owner or operator of a health  
59 and fitness application. The term includes any individual or  
60 entity that offers, maintains, owns, licenses, or controls  
61 software made available to consumers through an app store or  
62 website, provided that:

63 a. The software collects, processes, uses, shares,  
64 sells, or generates biological data or neural data from a  
65 consumer, whether alone or in combination with other personal  
66 data; and

67 b. The data is collected for purposes that include  
68 health tracking, wellness, sleep, fitness, mental or cognitive  
69 performance, mindfulness, or stress.

70 (4) EXPRESS CONSENT. A consumer's acknowledgment or  
71 permission, in writing or captured electronically, to a clear,  
72 meaningful, and prominent written notice regarding the  
73 disclosure or use of the consumer's biological data or neural  
74 data.

75 (5) NEURAL DATA. Information that is generated by the  
76 measurement of the activity of an individual's central or  
77 peripheral nervous systems and that can be processed by or  
78 with the assistance of a device.

79 Section 2. (a) A covered entity may not do any of the  
80 following without the express consent of the consumer:

81 (1) Transfer a consumer's biological data or neural  
82 data to a third party.

83 (2) Disclose the consumer's biological data or neural  
84 data to a third party for a reason other than fulfillment of



85 the entity's products or services.

86 (3) Use the consumer's biological data or neural data  
87 for a purpose other than what is necessary to perform the  
88 services or provide the goods reasonably expected by an  
89 average consumer who requests those goods or services.

90 (4) Market to a consumer based on the consumer's  
91 biological data or neural data.

92 (b) A covered entity that transfers, discloses, or uses  
93 a consumer's biological data or neural data for purposes other  
94 than those provided in subsection (a), before the transfer,  
95 disclosure, or use, shall notify the consumer that the  
96 information may be transferred, disclosed, or used for a  
97 specified purpose and provide the consumer the opportunity to  
98 limit or prevent the transfer, disclosure, or use of the  
99 biological data or neural data.

100 Section 3. (a) The Attorney General has exclusive  
101 authority to enforce this act.

102 (b) (1) The Attorney General, prior to initiating any  
103 action for a violation of any provision of this act, shall  
104 issue a notice of violation to the covered entity accused of  
105 the violation.

106 (2) If the covered entity fails to correct the  
107 violation within 45 days after receipt of the notice of  
108 violation, the Attorney General may bring an action for an  
109 injunction pursuant to this section. Upon a finding that the  
110 covered entity has violated this act and failed to correct the  
111 violation as required by this section, the court may assess a  
112 civil penalty of not more than three thousand dollars (\$3,000)



113 per violation.

114 (3) If within the 45-day period the covered entity  
115 corrects the noticed violation and provides the Attorney  
116 General with an express written statement that the alleged  
117 violation has been corrected and that no such further  
118 violations will occur, no action may be initiated against the  
119 covered entity.

120 Section 4. This act does not apply to any of the  
121 following uses of biological data or neural data:

122 (1) By law enforcement for any law enforcement  
123 purposes.

124 (2) To comply with a subpoena, summons, other lawful  
125 court order, or federal law.

126 (3) Pursuant to Article 2, Chapter 18 of Title 36, Code  
127 of Alabama 1975.

128 (4) By a genetic testing company that complies with  
129 Chapter 43 of Title 8, Code of Alabama 1975.

130 (5) The collection, use, retention, or disclosure of  
131 biological or neural data by a covered entity or business  
132 associate in accordance with 45 C.F.R. Parts 160 and 164.

133 (6) The use of de-identified biological or neural data.

134 (7) The collection, use, or retention of biological or  
135 neural data for noncommercial purposes, including for research  
136 and instruction, by a public or private institution of higher  
137 education or any entity owned or operated by a public or  
138 private institution of higher education.

139 (8) The transfer, disclosure, or use of biological or  
140 neural data that is governed by state or federal law



141 regulating the business of insurance, including underwriting,  
142 rating, risk classification, reinsurance, and claims  
143 administration.

144 Section 5. This act shall become effective on October  
145 1, 2026.