

HB263 ENGROSSED



1 HB263
2 6YR4511-2
3 By Representative Robbins
4 RFD: Judiciary
5 First Read: 15-Jan-26



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A BILL
TO BE ENTITLED
AN ACT

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

BE IT ENACTED BY THE LEGISLATURE OF ALABAMA:

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

(1) BIOLOGICAL DATA. Data generated by the technological processing, measurement, or analysis of an individual's biological, genetic, biochemical, physiological, or neural properties, compositions, or activities, or an individual's body or bodily functions, which are used to uniquely identify the specific individual to whom the data pertains. The term does not include a photograph, video or audio recording, or data generated from a photograph or audio recording, unless such data is generated to uniquely identify the specific individual to whom the data pertains.



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29 (2) CONSUMER. Any individual who is an Alabama
30 resident.

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

36 a. The software collects, processes, uses, shares,
37 sells, or generates biological data or neural data from a
38 consumer, whether alone or in combination with other personal
39 data; and

40 b. The data is collected for purposes that include
41 health tracking, wellness, sleep, fitness, mental or cognitive
42 performance, mindfulness, or stress.

43 (4) EXPRESS CONSENT. A consumer's acknowledgment or
44 permission, in writing or captured electronically, to a clear,
45 meaningful, and prominent written notice regarding the
46 disclosure or use of the consumer's biological data or neural
47 data.

48 (5) NEURAL DATA. Information that is generated by the
49 measurement of the activity of an individual's central nervous
50 system and that can be processed by or with the assistance of
51 a device.

52 (6) THIRD PARTY. An individual or legal entity that is
53 not a consumer, covered entity, or processor. For the purposes
54 of this subdivision, a processor is an entity that: (i)
55 processes biological data or neural data on behalf of a
56 covered entity; (ii) adheres to the instructions of the



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57 covered entity; and (iii) assists the covered entity in
58 meeting its obligations under this act.

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

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

63 (2) Disclose the consumer's biological data or neural
64 data to a third party for a reason other than fulfillment of
65 the entity's products or services.

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

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

72 (b) A covered entity that transfers, discloses, or uses
73 a consumer's biological data or neural data for purposes other
74 than those provided in subsection (a), before the transfer,
75 disclosure, or use, shall notify the consumer that the
76 information may be transferred, disclosed, or used for a
77 specified purpose and provide the consumer the opportunity to
78 limit or prevent the transfer, disclosure, or use of the
79 biological data or neural data.

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

82 (b) (1) The Attorney General, prior to initiating any
83 action for a violation of any provision of this act, shall
84 issue a notice of violation to the covered entity accused of



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85 the violation.

86 (2) If the covered entity fails to correct the
87 violation within 45 days after receipt of the notice of
88 violation, the Attorney General may bring an action for an
89 injunction pursuant to this section. Upon a finding that the
90 covered entity has violated this act and failed to correct the
91 violation as required by this section, the court may assess a
92 civil penalty of not more than three thousand dollars (\$3,000)
93 per violation.

94 (3) If within the 45-day period the covered entity
95 corrects the noticed violation and provides the Attorney
96 General with an express written statement that the alleged
97 violation has been corrected and that no such further
98 violations will occur, no action may be initiated against the
99 covered entity.

100 Section 4. This act does not apply to any of the
101 following transfers, disclosures, or uses of biological data
102 or neural data:

103 (1) By law enforcement for any law enforcement
104 purposes.

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

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

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

111 (5) The collection, use, retention, or disclosure of
112 biological or neural data by a covered entity or business



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113 associate in accordance with 45 C.F.R. Parts 160 and 164.

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

115 (7) The collection, use, or retention of biological or
116 neural data for noncommercial purposes, including for research
117 and instruction, by a public or private institution of higher
118 education or any entity owned or operated by a public or
119 private institution of higher education.

120 (8) The transfer, disclosure, or use of biological or
121 neural data that is governed by state or federal law
122 regulating the business of insurance, including underwriting,
123 rating, risk classification, reinsurance, and claims
124 administration.

125 (9) To provide a product or service specifically
126 requested by a consumer; to perform a contract to which the
127 consumer is a party, including fulfilling the terms of a
128 written warranty; or to take steps at the request of the
129 consumer prior to entering into a contract.

130 (10) To prevent, detect, protect against, or respond to
131 security incidents, identity theft, fraud, harassment,
132 malicious or deceptive activities, or any illegal activity; to
133 preserve the integrity or security of systems; or to
134 investigate, report, or prosecute those responsible for any
135 such action.

136 (11) To conduct internal research to develop, improve,
137 or repair products, services, or technology.

138 (12) To effectuate a product recall.

139 (13) To identify and repair technical errors that
140 impair existing or intended functionality.



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141 (14) To perform internal operations that are reasonably
142 aligned with the expectations of the consumer or reasonably
143 anticipated based on the consumer's existing relationship with
144 the covered entity or are otherwise compatible with processing
145 data in furtherance of the provision of a product or service
146 specifically requested by a consumer or the performance of a
147 contract to which the consumer is a party.

148 Section 5. This act shall become effective on October
149 1, 2026.



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House of Representatives

Read for the first time and referred15-Jan-26
to the House of Representatives
committee on Judiciary

Read for the second time and placed19-Feb-26
on the calendar:
0 amendments

Read for the third time and passed26-Feb-26
as amended
Yeas 104
Nays 0
Abstains 0

John Treadwell
Clerk