



A.1362A (Gunther)/S.4457A (Liu)

STAFF CONTACT : Mario Vazquez | Assistant Director, Government Affairs | 518.694.4461

<p>BILL</p> <p>A.1362A (Gunther)/S.4457A (Liu)</p>
<p>SUBJECT</p> <p>Establishes the biometric privacy act</p>
<p>DATE</p> <p>June 05, 2024</p>
<p>OPPOSE</p>

The Business Council opposes A.1362 (Gunther)/S.4457A (Liu) which would require private entities that have biometric data in their possession to develop written policies that are available to the public and that address retention and destruction of that data.

The need to protect certain biometric data is an important goal, however, the current language of this legislation could lead to huge financial burden to business in New York. This legislation is almost identical to the Illinois Biometric Information Privacy Act (BIPA) but excludes two crucial amendments made by the Illinois legislature recently. The first amendment would be to allow electronic signatures as a valid method of obtaining consent and the second amendment limits how damages accrue.

BIPA has caused major problems in Illinois, most notably a \$17 billion judgement against White Castle where the Court pleaded with the legislature to amend the law. Former White Castle employees argued that White Castle had violated BIPA, as employees were required to scan fingerprints in order access paystubs and computers, which was then sent to a third party for verification. This judgment was delivered prior to the amendments limiting how damages accrue as the reason White Castle had to pay \$17 billion was that the Court found that White Castle violated BIPA each time an employee's fingerprints were scanned and sent for verification, not at the initial point of collection,

This legislation as is would open businesses across the state to unnecessary litigation, create a huge financial burden, and add to the backlog of cases in New York.

For these reasons The Business Council opposes A.1362 (Gunther)/S.4457A (Liu).