

HOUSE BILL NO. 654

AMENDMENT IN THE NATURE OF A SUBSTITUTE

(Proposed by the House Committee on Communications, Technology and Innovation)

on _____)

(Patron Prior to Substitute—Delegate Maldonado)

A BILL to amend the Code of Virginia by adding a section numbered 59.1-577.2, relating to Consumer Data Protection Act; consent required for processing certain biometric data.

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding a section numbered 59.1-577.2 as follows:

§ 59.1-577.2. Consent required for processing certain biometric data.

A. For purposes of this section, "facial data" means data generated by automatic measurements of an individual's face that are used to identify a specific individual, including facial mapping, facial geometry, or facial template technologies. "Facial data" includes data generated from a physical or digital photograph or a video recording.

B. No controller, processor, or affiliate of the controller or processor shall process facial data or data related to eye retinas or irises concerning a consumer without obtaining the consumer's consent, or, in the case of the processing of such data concerning a known child, without processing such data in accordance with the federal Children's Online Privacy Protection Act (15 U.S.C. § 6501 et seq.).

C. In addition to the exemptions described in § 59.1-576, this section shall not apply to an air carrier, as defined and regulated under the Federal Aviation Act of 1958 (49 U.S.C. § 40101 et seq.), as amended. No provision of this section that is expressly preempted by a federal act or agreement governing national security, health care, or otherwise shall be enforced or imposed until the termination of such act or agreement.