

# SENATE BILL REPORT

## ESSB 6179

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As Passed Senate, February 12, 2024

**Title:** An act relating to the use of biometric age verification by liquor licensees.

**Brief Description:** Concerning the use of biometric age verification by liquor licensees.

**Sponsors:** Senate Committee on Labor & Commerce (originally sponsored by Senators MacEwen, Keiser and Nguyen).

**Brief History:**

**Committee Activity:** Labor & Commerce: 1/22/24, 1/29/24 [DPS].

**Floor Activity:** Passed Senate: 2/12/24, 49-0.

**Brief Summary of Engrossed First Substitute Bill**

- Allows a biometric age verification system to be relied upon by any liquor licensee as evidence of legal age of a person buying liquor.
- Provides that use of a biometric age verification system is a mitigating circumstance the Liquor and Cannabis Board (LCB) may consider to impose a different penalty than the standard LCB penalties.

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### SENATE COMMITTEE ON LABOR & COMMERCE

**Majority Report:** That Substitute Senate Bill No. 6179 be substituted therefor, and the substitute bill do pass.

Signed by Senators Keiser, Chair; Conway, Vice Chair; Saldaña, Vice Chair; King, Ranking Member; Braun, Hansen, MacEwen, Schoesler and Stanford.

**Staff:** Susan Jones (786-7404)

**Background:** Identification Cards for Liquor Purchases. A card of identification (ID card) may be accepted as an identification card for the purpose of procuring liquor by any liquor

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licensee and as evidence of legal age of the person presenting the ID card provided the licensee complies with the conditions and procedures of the law and the Liquor and Cannabis Board (LCB) rules. An ID card must be presented by the holder upon request of any licensee, peace officer, or LCB enforcement officer for the purpose of aiding the licensee, peace officer, or enforcement officer to determine whether or not such person is of legal age to purchase liquor when the person wishes to purchase liquor from a licensed establishment.

LCB rule provides that acceptable forms of identification to verify a person's age for the purpose of selling, serving, or allowing a person to possess or consume alcohol include:

- the identification holder's photo;
- the identification holder's date of birth; and
- the identification holder's signature, except on federally issued identification where a visible signature is not required.

Acceptable forms of identification include:

- a driver's license, instruction permit, or identification card of any state, province of Canada, U.S. territory, or the District of Columbia, or an "identocard" issued by the Department of Licensing (DOL);
- a United States armed forces identification card issued to active duty, reserve, and retired personnel and the personnel's dependents;
- a passport, passport card, or NEXUS card;
- a Merchant Marine identification card issued by the United States Coast Guard; or
- an enrollment card issued by the governing authority of a federally recognized Indian tribe, if the enrollment card incorporates reasonable security features sufficient to deter counterfeiting, which may include features similar to those used by DOL for standard Washington driver's licenses.

An tribal enrollment card must be approved by LCB's enforcement division prior to use as an acceptable form of identification. A tribe may request approval by submitting for review and inspection, a letter requesting approval and describing the security features of the enrollment card; a physical sample of an enrollment card; and for tribes located outside of Washington, a contact phone number where enforcement officers may call at any time to verify the validity of the enrollment card. After review and inspection, an LCB designee will send a letter approving or denying the enrollment card as an acceptable form of identification. LCB may rescind approval if the enrollment card no longer meets the requirements.

Identification with an expiration date cannot be used to verify age after the expiration date.

Biometric Identifiers. A person may not enroll a biometric identifier in a database for a commercial purpose, without providing notice, obtaining consent, or providing a mechanism to prevent subsequent use. A biometric identifier enrolled or obtained for a commercial purpose may not be used or disclosed in a way inconsistent with the original

terms under which it was provided, unless new consent is obtained.

The sale, lease, or disclosure of a biometric identifier for a commercial purpose, without the individual's consent, is prohibited unless it is:

- consistent with the enrollment, protection, and retention requirements;
- necessary in providing a product or service sought by the individual;
- necessary in a financial transaction that the individual requested or authorized;
- required or expressly authorized under a federal or state statute or court order;
- made to a third party with specified restrictions; or
- made to prepare for litigation or for the purpose of judicial process.

A person in possession of biometric identifiers enrolled for a commercial purpose must guard against unauthorized access and adhere to retention limitations. The limitations on disclosure and retention do not apply if the biometric identifiers have been unenrolled. Violations may be enforced by the Attorney General under the Consumer Protection Act.

Biometric identifier means data generated by automatic measurements of an individual's biological characteristics. Biometric identifiers may be a fingerprint, voiceprint, eye retinas, irises, or other unique biological patterns or characteristics used to identify a specific individual. Biometric identifier does not include a physical or digital photograph, video or audio recording or data generated therefrom, or information collected, used, or stored for health care treatment, payment, or operations under the federal Health Insurance Portability and Accountability Act. Biometric system means an automated identification system capable of capturing, processing, and storing a biometric identifier, comparing the biometric identifier to one or more references, and matching the biometric identifier to a specific individual.

**Summary of Engrossed First Substitute Bill:** A biometric age verification system may be relied upon by any liquor licensee as evidence of legal age of the person using the system for the purpose of procuring liquor.

A biometric age verification system must:

- use a biometric system;
- use an electronic authentication process or set of processes to verify the validity of an ID card and the identity of the holder of the card;
- verify the person enrolling in the system is the same as the ID card holder and securely store the data from the ID card in the biometric system;
- provide an indication that the ID card holder meets the age eligibility requirement upon future scans of the biometric characteristic used in the biometric system; and
- maintain records as established by LCB.

Use of a biometric age verification system is a mitigating circumstance LCB may consider to impose a different penalty than the standard LCB penalties. The use of a biometric age verification system is optional for a licensee and a person procuring liquor. Any licensee

using the system must post near its entrance a notice visible to the public that an ID card may be used instead of participation in the biometric age verification system. When a liquor purchase is separate from a physical point of sale location, the notice must be provided wherever consumers are directed to the system. A licensee may not collect a person's biometric identifiers except with consent from the person, which must be obtained before enrolling in the biometric system. Consumers must be informed of the categories of data that will be collected, including the specific ways in which it will be used, and how consent may be withdrawn and how to request data be deleted. Use of the data collected in the system for any purpose other than age verification for a liquor purchase, except that the transaction may include other purchases made at the same time with the liquor purchase is prohibited. Violations of the act are subject to the Consumer Protection Act and may only be enforced by the Attorney General.

Biometric identifier means data that is generated from the measurement or technological processing of an individual's biological characteristics and that identifies a consumer including, but not limited to, retina or iris scans, scans of face geometry, fingerprint or palmprint mapping, and voiceprints that are used to identify a specific individual. Biometric identifier does not include a physical or digital photograph, video or audio recording or data generated therefrom, or information collected, used, or stored for health care treatment, payment, or operations under federal HIPPA.

Biometric system means an automated identification system used to capture, process, and store a biometric identifier, compare the biometric identifier to one or more references, and match the biometric identifier to a specific individual.

Card of identification means identification issued by any United States state, United States territory, or the District of Columbia, tribal or federal government, as well as any physical identification document issued by a foreign government that contains the holder's photos, date of birth, and signature except on United States federally issued identification where a visible signature is not required.

Consent means a clear affirmative act that signifies a consumer's freely given, specific, informed, voluntary, and unambiguous agreement, which may include written consent provided by electronic means, which may not be obtained by a consumer's: acceptance of a general or broad terms of use agreement that contains descriptions of personal data processing along with other unrelated information; or agreement obtained through the use of deceptive designs. Deceptive designs means a user interface designed or manipulated with the effect of subverting or impairing user autonomy, decision making, or choice.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill:** *The committee recommended a different version of the bill than what was heard.* PRO: The bill allows a business to use a biometric age verification. It allows the system but doesn't mandate the use. It is similar to systems in the airport. It could be used with events with large volumes of people to get them through the cue faster.

These systems have allowed travelers to verify their IDs using their eyes, faces, and fingers. Washington retailers, including stadiums, already use biometric scans to complete transactions. It is used in other major stadiums throughout the country. It will reduce wait times for fans. It has been safely implemented in Colorado. The bill clarifies that they can use this system for alcohol purchases.

This is a good use of the technology. It is a reliable, secure, high tech system. A person uploads their ID and a profile picture. The ID doesn't stay in the system. The system combats fake IDs and helps retailers. The ID is verified by a secure system. Biometrics are more secure than physical IDs, which can be forged or duplicated. Biometric are more protective of privacy. The system verifies the person by hovering their palm over a device. This is more reliable than a retina scan or fingerprint. This provides a highly reliable method to verify the customer is of legal drinking age.

We are working with the Attorney General's Office on the bill.

This policy is crafted to help with safety, security, and privacy and enhances the customer experience.

**Persons Testifying:** PRO: Senator Drew MacEwen, Prime Sponsor; Tyler Blackney, Amazon; Robert Singleton, Chamber of Progress; Shannon Patch, Delaware North, concessions operator at Climate Pledge Arena; Jessica Ng, CLEAR; Robert (Bob) Battles, Association of Washington Business (AWB); Kelly Fukai, Washington Technology Industry Association.

**Persons Signed In To Testify But Not Testifying:** No one.