

**SB 3874 (Cunningham) | HB 4692 (Wheeler)**

## Support Common Sense Reforms to BIPA

Enacted in 2008, the Biometric Information Privacy Act (also known as “BIPA”) regulates how companies collect biometric information for employment purposes (such as fingerprints and thumb-scans) in addition to how companies and organizations collect biometric information from consumers. While, on its face, the Act was established to protect Illinois residents, BIPA has given way to unintended, predatory legal actions taken against Illinois businesses.

Punitive private right of action provisions, amplified by a 2019 IL Supreme Court Decision, which held that a person need not show **any** form of harm or damage, have been weaponized to **penalize small and mid-sized businesses and inhibit innovative and safety products from entering the Illinois market.**

Consider the following; from 2008 to 2019, there were 173 class action lawsuits filed under BIPA. Since then, more than 1,000 class action lawsuits have been filed, increasingly against small and mid-sized businesses. **Nearly half of those suits are against employers of 500 or less employees.** These suits impact employers throughout Illinois and across every industry, including: manufacturers, retailers, hospitals, nursing homes and assisted living facilities, nonprofits, hotels, restaurants, entertainment venues, and many more.

Local businesses across Illinois are facing multi-million-dollar lawsuits for routine safety and HR practices while critical products that would help address issues, such as organized retail theft, are prohibited from being introduced here in the Land of Lincoln because of BIPA.

**Call to Action:** Rather than penalizing employers, we urge the General Assembly to work with businesses to enact common sense employer protections under BIPA that will maintain the spirit of the law while removing the currently onerous traps that continue to hurt Illinois businesses across every sector. Enacting these reforms will create a more positive business climate and help in achieving a more robust economic recovery amidst the ongoing effects of the Covid-19 pandemic.

Specifically, SB 3874 and HB 4692 amends BIPA to provide for the following:

- ✓ Protect businesses from frivolous lawsuits by specifically exempting employers using biometric identifiers and biometric information for the standard purposes of record keeping, use of timeclocks, use by human resource departments, and most importantly, for security purposes;
- ✓ Allow businesses to use biometric identifiers and information for security purposes or to protect their employees, their facilities, their products, and their customers from the rising retail theft issue taking the State by storm and other potentially harmful and/or violent acts.
- ✓ Allow businesses to use biometric identifiers and information for the purpose of accessing a facility or sensitive or hazardous area.
- ✓ Provide liability protections to the employers properly following the law.