

ASSEMBLY BILL

No. 1116

**Introduced by Committee on Privacy and Consumer Protection
(Gatto (Chair), Wilk (Vice Chair), Baker, Chang, Chau, Dahle,
and Gordon)**

February 27, 2015

An act to add Chapter 35 (commencing with Section 22948.20) to Division 8 of the Business and Professions Code, relating to business.

LEGISLATIVE COUNSEL'S DIGEST

AB 1116, as introduced, Committee on Privacy and Consumer Protection. Connected televisions.

Existing law makes it a crime for a person who owns, controls, operates, or manages a satellite or cable television corporation to use an electronic device to record, transmit, or observe any events or listen to, record, or monitor any conversations that take place inside a subscriber's residence, workplace, or place of business, without obtaining the express written consent of the subscriber. Existing law requires a device that includes an integrated and enabled wireless access point that is sold as new in the state for use in a small office, home office, or residential setting to be manufactured to possess certain features and advisories, including, among others, protection on the device that requires an affirmative action by the consumer prior to allowing use of the product and an advisory for the consumer regarding how to protect his or her wireless network connection from unauthorized access.

This bill would prohibit a manufacturer from producing for sale in the state, or delivering to be offered for sale in the state, a connected television, as defined, that offers voice recognition technology that is

capable of recording or transmitting audio to the manufacturer or a 3rd party when any voice recognition technology is not enabled or recording or transmitting any spoken words to the manufacturer or a 3rd party, except for the specific voice commands necessary to operate the voice recognition technology. This bill would prohibit a waiver of these prohibitions and authorize their enforcement by injunction or civil penalty in a court of competent jurisdiction by the Attorney General or a district attorney. This bill specifies that its provisions shall not be deemed to create a private right of action. This bill would provide that these provisions are severable.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 35 (commencing with Section 22948.20)
2 is added to Division 8 of the Business and Professions Code, to
3 read:

4
5 CHAPTER 35. CONNECTED TELEVISIONS
6

7 22948.20. For purposes of this chapter, “connected television”
8 shall mean a television set or set-top box with integrated Internet
9 features.

10 22948.21. A manufacturer shall not produce for sale in the
11 state, or deliver to be offered for sale in the state, a connected
12 television that offers voice recognition technology that is capable
13 of either of the following:

14 (1) Recording or transmitting audio, including, but not limited
15 to, an individual’s conversation, to the manufacturer or a third
16 party when any voice recognition technology is not enabled.

17 (2) Recording or transmitting any spoken words to the
18 manufacturer or a third party, except for the specific voice
19 commands necessary to operate the voice recognition technology.

20 22948.22. Any waiver of the prohibitions in Section 22948.21
21 is contrary to public policy and void and unenforceable.

22 22948.23. (a) Actions for relief pursuant to this chapter may
23 be prosecuted exclusively in a court of competent jurisdiction in
24 a civil action brought in the name of the people of the State of

1 California by the Attorney General or by any district attorney. This
2 chapter shall not be deemed to create a private right of action.

3 (b) A court may enjoin a manufacturer that engages, has
4 engaged, or proposes to engage, in a violation of this chapter. The
5 court may make any orders or judgments as may be necessary to
6 prevent a violation of this chapter.

7 (c) A manufacturer that engages, has engaged, or proposes to
8 engage, in a violation of this chapter shall be liable for a civil
9 penalty not to exceed two thousand five hundred dollars (\$2,500)
10 for each connected television in violation of this chapter. If the
11 action is brought by the Attorney General, the penalty shall be
12 deposited into the General Fund. If the action is brought by a
13 district attorney, the penalty shall be paid to the treasurer of the
14 county in which the judgment was entered.

15 22948.24. The remedies or penalties provided by this chapter
16 are cumulative to each other and to the remedies or penalties
17 available under all other laws of the state.

18 22948.25. The provisions of this chapter are severable. If any
19 provision of this chapter or its application are held to be invalid,
20 that invalidity shall not affect other provisions or applications that
21 can be given effect without the invalid provision or application.