

AMENDED IN ASSEMBLY APRIL 13, 2015

CALIFORNIA LEGISLATURE—2015–16 REGULAR SESSION

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 amended, 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.~~ *connected television sold or leased in the state that is equipped with a voice recognition feature to use spoken words or other sounds for any purpose not essential to the function of the application for which the user enabled or utilized the voice recognition feature, and further prohibit a person from enabling or utilizing the voice recognition feature of a connected television without the consent of the user, as specified. This bill would require a connected television sold or leased in the state to be equipped with mechanisms to control the use of the voice recognition feature and indicate when it is collecting or transmitting spoken words or other sounds. This bill would define terms for its purposes.* 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:~~

1 ~~(1) Recording or transmitting audio, including, but not limited~~
2 ~~to, an individual's conversation, to the manufacturer or a third~~
3 ~~party when any voice recognition technology is not enabled.~~

4 ~~(2) Recording or transmitting any spoken words to the~~
5 ~~manufacturer or a third party, except for the specific voice~~
6 ~~commands necessary to operate the voice recognition technology.~~

7 22948.20. *(a) Notwithstanding subdivision (b), a connected*
8 *television sold or leased in the state that is equipped with a voice*
9 *recognition feature shall not be used to collect, record, store,*
10 *analyze, transmit, interpret, or otherwise use spoken words or*
11 *other sounds for any purpose not essential to the function of the*
12 *application for which the user enabled or utilized the voice*
13 *recognition feature. Purposes not essential to the function of an*
14 *application include, but are not limited to, advertising and the*
15 *analysis of household conversations.*

16 *(b) (1) A person shall not enable or utilize the voice recognition*
17 *feature of a connected television sold or leased in the state without*
18 *the consent of the user, as set forth in paragraph (2).*

19 *(2) Consent shall be received by means of a separate notice that*
20 *gives the user an opportunity to understand and choose the use of*
21 *the voice recognition feature before it is enabled, including, but*
22 *not limited to, an interactive on-screen dialog. Consent shall only*
23 *be required at the time the voice recognition feature is enabled,*
24 *and not each time the user starts the voice recognition feature.*

25 *(c) A connected television sold or leased in the state that is*
26 *equipped with a voice recognition feature shall also be equipped*
27 *with all of the following:*

28 *(1) A mechanism that requires a user to affirmatively choose*
29 *the use of the voice recognition feature, including, but not limited*
30 *to, a user setting.*

31 *(2) A mechanism that allows a user to start and stop the voice*
32 *recognition feature for the purpose of operating the connected*
33 *television or using a specific software application on the television,*
34 *including, but not limited to, a button or voice command.*

35 *(3) A mechanism that indicates to the user when the voice*
36 *recognition feature is collecting or transmitting spoken words or*
37 *other sounds, including, but not limited to, a signal light.*

38 22948.21. *For purposes of this chapter, the following*
39 *definitions shall apply:*

1 (a) “Connected television” means a device that can be
2 connected to the Internet, receives television signals used to
3 broadcast programs for entertainment, information, and education,
4 and reproduces them on a screen, except that this term shall not
5 include a personal computer, tablet, or cellular telephone.

6 (b) “Enable” means to take an affirmative action to make a
7 voice recognition feature operational on a connected television.

8 (c) “User” mean an individual who purchases, leases, or takes
9 ownership of a connected television.

10 (d) “Utilize” means to use a voice recognition feature that was
11 previously enabled.

12 (e) “Voice recognition feature” means the function of a
13 connected television that allows the collection, recording, storage,
14 analysis, transmission, interpretation, or other use of spoken words
15 or other sounds, except that this term shall not include voice
16 commands that are not recorded or transmitted beyond the
17 connected television.

18 22948.22. Any waiver of the prohibitions in Section 22948.21
19 is contrary to public policy and void and unenforceable.

20 22948.23. (a) Actions for relief pursuant to this chapter may
21 be prosecuted exclusively in a court of competent jurisdiction in
22 a civil action brought in the name of the people of the State of
23 California by the Attorney General or by any district attorney. This
24 chapter shall not be deemed to create a private right of action.

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

29 (c) A manufacturer that engages, has engaged, or proposes to
30 engage, in a violation of this chapter shall be liable for a civil
31 penalty not to exceed two thousand five hundred dollars (\$2,500)
32 for each connected television in violation of this chapter. If the
33 action is brought by the Attorney General, the penalty shall be
34 deposited into the General Fund. If the action is brought by a
35 district attorney, the penalty shall be paid to the treasurer of the
36 county in which the judgment was entered.

37 22948.24. The remedies or penalties provided by this chapter
38 are cumulative to each other and to the remedies or penalties
39 available under all other laws of the state.

1 22948.25. The provisions of this chapter are severable. If any
2 provision of this chapter or its application are held to be invalid,
3 that invalidity shall not affect other provisions or applications that
4 can be given effect without the invalid provision or application.

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