

AMENDED IN ASSEMBLY APRIL 30, 2015

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)**

(Coauthor: Assembly Member Dababneh)

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 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 or limit any existing 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. (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 other
 11 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.

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

4 (2) Consent shall be received by means of a separate notice that
5 gives the user an opportunity to understand and choose the use of
6 the voice recognition feature before it is ~~enabled, including, but~~
7 ~~not limited to, an interactive on-screen dialog.~~ *enabled*. Consent
8 shall only be required at the time the voice recognition feature is
9 enabled, and not each time the user starts the voice recognition
10 feature.

11 (c) A connected television sold or leased in the state that is
12 equipped with a voice recognition feature shall also be equipped
13 with all of the following:

14 (1) A mechanism that requires a user to affirmatively choose
15 the use of the voice recognition feature, including, but not limited
16 to, a user setting.

17 (2) A mechanism that allows a user to start and stop the voice
18 recognition feature for the purpose of operating the connected
19 television or using a specific software application on the ~~television;~~
20 ~~including, but not limited to, a button or voice command.~~ *television*.

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

24 (d) *This section shall not apply to those products and services*
25 *provided by companies covered by Section 637.5 of the Penal*
26 *Code.*

27 22948.21. For purposes of this chapter, the following
28 definitions shall apply:

29 (a) “Connected television” means a device that can be connected
30 to the Internet, receives television signals used to broadcast
31 programs for entertainment, information, and education, and
32 reproduces them on a screen, except that this term shall not include
33 a personal computer, tablet, *video game console*, or cellular
34 telephone.

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

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

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

1 (e) “Voice recognition feature” means the function of a
2 connected television that allows the collection, recording, storage,
3 analysis, transmission, interpretation, or other use of spoken words
4 or other sounds, except that this term shall not include voice
5 commands that are not recorded or transmitted beyond the
6 connected television.

7 22948.22. Any waiver of the prohibitions in Section 22948.21
8 is contrary to public policy and void and unenforceable.

9 22948.23. (a) Actions for relief pursuant to this chapter may
10 be prosecuted exclusively in a court of competent jurisdiction in
11 a civil action brought in the name of the people of the State of
12 California by the Attorney General or by any district attorney. This
13 chapter shall not be deemed to create a private right of ~~action.~~
14 *action, or limit any existing private right of action.*

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

19 (c) A manufacturer that engages, has engaged, or proposes to
20 engage, in a violation of this chapter shall be liable for a civil
21 penalty not to exceed two thousand five hundred dollars (\$2,500)
22 for each connected television in violation of this chapter. If the
23 action is brought by the Attorney General, the penalty shall be
24 deposited into the General Fund. If the action is brought by a
25 district attorney, the penalty shall be paid to the treasurer of the
26 county in which the judgment was entered.

27 22948.24. The remedies or penalties provided by this chapter
28 are cumulative to each other and to the remedies or penalties
29 available under all other laws of the state.

30 22948.25. The provisions of this chapter are severable. If any
31 provision of this chapter or its application are held to be invalid,
32 that invalidity shall not affect other provisions or applications that
33 can be given effect without the invalid provision or application.