

AMENDED IN SENATE JULY 2, 2015
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. *person or entity from using the features in a connected television that allow the collection, recording, storage, analysis, transmission, interpretation, or other use of the spoken word of a person within this state without informing the user or a person designated by the user to perform the initial setup or installation of the connected television, except as specified. This bill would further prohibit a manufacturer of a connected television or a third party that contracts with a manufacturer of a connected television, as specified, from using or selling for any advertising purpose any spoken word or other sound that was collected by a connected television for the purpose of improving the function, operation, or features of the connected television. This bill would prohibit a person or entity from compelling a manufacturer or entity offering features that allow the collection, recording, storage, analysis, transmission, interpretation, or other use of spoken words, to build specific features for the purpose of allowing an investigative or law enforcement officer to monitor communications through that feature. This bill would limit the liability of a manufacturer to functionality provided at the time of the original sale of a connected television and specifically exclude liability for functionality provided by applications downloaded and installed by a user.* 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.~~

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. Consent shall~~
22 ~~only be required at the time the voice recognition feature is enabled,~~
23 ~~and not each time the user starts the voice recognition feature.~~

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

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

30 ~~(2) A mechanism that allows a user to start and stop the voice~~
31 ~~recognition feature for the purpose of operating the connected~~
32 ~~television or using a specific software application on the television.~~

33 ~~(3) A mechanism that indicates to the user when the voice~~
34 ~~recognition feature is collecting or transmitting spoken words or~~
35 ~~other sounds.~~

36 ~~(d) This section shall not apply to those products and services~~
37 ~~provided by companies covered by Section 637.5 of the Penal~~
38 ~~Code.~~

1 22948.20. (a) *Except for voice commands that are not recorded*
 2 *or transmitted beyond the connected television, a person or entity*
 3 *shall not use the features in a connected television that allow the*
 4 *collection, recording, storage, analysis, transmission,*
 5 *interpretation, or other use of the spoken word of a person within*
 6 *this state without informing the user or a person designated by the*
 7 *user to perform the initial setup or installation of the connected*
 8 *television. A manufacturer of a connected television or a third*
 9 *party that contracts with a manufacturer of a connected television*
 10 *to provide a voice recognition feature shall not use or sell for any*
 11 *advertising purpose any spoken word or other sound that was*
 12 *collected by a connected television for the purpose of improving*
 13 *the function, operation, or features of the connected television,*
 14 *including, but not limited to, the provision of an accessible user*
 15 *interface for people with disabilities.*

16 (b) *A person or entity shall not compel a manufacturer or entity*
 17 *offering features that allow the collection, recording, storage,*
 18 *analysis, transmission, interpretation, or other use of spoken words,*
 19 *to build specific features for the purpose of allowing an*
 20 *investigative or law enforcement officer to monitor communications*
 21 *through that feature.*

22 (c) *A manufacturer shall only be liable for functionality provided*
 23 *at the time of the original sale of a connected television and shall*
 24 *not be liable for functionality provided by applications downloaded*
 25 *and installed by a user.*

26 (d) *This section shall not apply to any product or service*
 27 *provided by a company covered under Section 637.5 of the Penal*
 28 *Code.*

29 22948.21. For purposes of this chapter, the following
 30 definitions shall apply:

31 (a) ~~“Connected television” means a device that can be connected~~
 32 ~~to the Internet, receives television signals used to broadcast~~
 33 ~~programs for entertainment, information, and education, and~~
 34 ~~reproduces them on a screen, except that this term shall not include~~
 35 ~~a personal computer, tablet, video game console, or cellular~~
 36 ~~telephone. video device designed for home use to receive television~~
 37 *signals and reproduce them on an integrated, physical screen*
 38 *display that exceeds 12 inches, except that this term shall not*
 39 *include a personal computer, portable device, or a separate device*
 40 *that connects physically or wirelessly to a television, including,*

1 *but not limited to, a set-top box, video game console, or digital*
2 *video recorder.*

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

5 ~~(e)~~

6 ~~(b) “User” mean an individual~~ *means a person who purchases,*
7 *leases, or takes ownership of a connected television. A person who*
8 *is incidentally recorded when a voice recognition feature is*
9 *activated by a user shall not be deemed to be a user.*

10 ~~(d)~~

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

13 ~~(e)~~

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

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
25 California by the Attorney General or by any district attorney. This
26 chapter shall not be deemed to create a private right of action, or
27 limit any existing private right of action.

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

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

1 22948.24. The remedies or penalties provided by this chapter
2 are cumulative to each other and to the remedies or penalties
3 available under all other laws of the state.

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