

AMENDED IN SENATE JULY 16, 2015

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**

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**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

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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 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 *prominently* 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~~ television, *including* 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:

CHAPTER 35. CONNECTED TELEVISIONS

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22948.20. (a) Except for voice commands that are not recorded or transmitted beyond the connected television, a person or entity shall not use 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 *prominently* informing the user or a person designated by the user to perform the initial setup or installation of the connected television. A manufacturer of a connected television or a third party that contracts with a manufacturer of a connected television to provide a voice recognition feature shall not use or sell for any advertising purpose any spoken word or other sound that was collected by a connected ~~television~~ *television, including* for the purpose of improving the function, operation, or features of the connected television, ~~including, but not limited to, or for~~ the provision of an accessible user interface for people with disabilities.

(b) A person or entity shall not compel 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.

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

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

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

(a) “Connected television” means a video device designed for home use to receive television signals and reproduce them on an integrated, physical screen display that exceeds 12 inches, except that this term shall not include a personal computer, portable device, or a separate device that connects physically or wirelessly to a television, including, but not limited to, a set-top box, video game console, or digital video recorder.

1 (b) “User” means a person who purchases, leases, or takes  
2 ownership of a connected television. A person who is incidentally  
3 recorded when a voice recognition feature is activated by a user  
4 shall not be deemed to be a user.

5 ~~(e) “Utilize” means to use a voice recognition feature that was~~  
6 ~~previously enabled.~~

7 ~~(d)~~

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

14 22948.22. Any waiver of the prohibitions in Section 22948.21  
15 is contrary to public policy and void and unenforceable.

16 22948.23. (a) Actions for relief pursuant to this chapter may  
17 be prosecuted exclusively in a court of competent jurisdiction in  
18 a civil action brought in the name of the people of the State of  
19 California by the Attorney General or by any district attorney. This  
20 chapter shall not be deemed to create a private right of action, or  
21 limit any existing private right of action.

22 (b) A court may enjoin a ~~manufacturer that~~ *person who* engages,  
23 has engaged, or proposes to engage, in a violation of this chapter.  
24 The court may make any orders or judgments as may be necessary  
25 to prevent a violation of this chapter.

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

34 22948.24. The remedies or penalties provided by this chapter  
35 are cumulative to each other and to the remedies or penalties  
36 available under all other laws of the state.

37 22948.25. The provisions of this chapter are severable. If any  
38 provision of this chapter or its application are held to be invalid,

- 1 that invalidity shall not affect other provisions or applications that
- 2 can be given effect without the invalid provision or application.

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