

AMENDED IN SENATE SEPTEMBER 3, 2015

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 or~~ 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~~ *providing the operation of a voice recognition feature* within this state without prominently ~~informing~~ *informing, during the initial setup or installation of a connected television, either the user or a* the person designated by the user to perform the initial setup or installation of the connected television, ~~except as specified.~~ *television.* 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, including for the purpose of improving the function, operation, or features of the connected television. ~~any actual recordings of spoken word collected through the operation of a voice recognition feature by the manufacturer of a connected television, or a 3rd party contracting with a manufacturer of a connected television, for the purpose of improving the voice recognition feature from being sold or used for any advertising purpose.~~ This bill would prohibit a person or entity from compelling a manufacturer or *other* entity ~~offering features that allow the collection, recording, storage, analysis, transmission, interpretation, or other use of spoken words,~~ *providing the operation of a voice recognition feature* 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 *that the user chooses to use in the cloud or are* 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) ~~Except for voice commands that are not recorded~~  
8 ~~or transmitted beyond the connected television, a~~A person or entity  
9 shall not use the features in a connected television that allow the  
10 collection, recording, storage, analysis, transmission, interpretation,  
11 ~~or other use of the spoken word of a person~~ *provide the operation*  
12 *of a voice recognition feature* within this state without prominently  
13 ~~informing~~ *informing, during the initial setup or installation of a*  
14 *connected television, either the user or a the person* designated by  
15 the user to perform the initial setup or installation of the connected  
16 television. ~~A manufacturer of a connected television or a third~~  
17 ~~party that contracts with a manufacturer of a connected television~~  
18 ~~to provide a voice recognition feature shall not use or sell for any~~  
19 ~~advertising purpose any spoken word or other sound that was~~  
20 ~~collected by a connected television, including for the purpose of~~  
21 ~~improving the function, operation, or features of the connected~~  
22 ~~television, or for the provision of an accessible user interface for~~  
23 ~~people with disabilities.~~

24 (b) *Any actual recordings of spoken word collected through the*  
25 *operation of a voice recognition feature by the manufacturer of a*  
26 *connected television for the purpose of improving the voice*  
27 *recognition feature, including, but not limited to, the operation of*  
28 *an accessible user interface for people with disabilities, shall not*  
29 *be sold or used for any advertising purpose.*

30 (c) *Any actual recordings of spoken word collected through the*  
31 *operation of a voice recognition feature by a third party*  
32 *contracting with a manufacturer for the purpose of improving the*  
33 *voice recognition feature, including, but not limited to, the*

1 *operation of an accessible user interface for people with*  
2 *disabilities, shall not be sold or used for any advertising purpose.*

3 ~~(b)~~

4 (d) A person or entity shall not compel a manufacturer or *other*  
5 ~~entity offering features that allow the collection, recording, storage,~~  
6 ~~analysis, transmission, interpretation, or other use of spoken words,~~  
7 *providing the operation of a voice recognition feature to build*  
8 *specific features for the purpose of allowing an investigative or*  
9 *law enforcement officer to monitor communications through that*  
10 *feature.*

11 ~~(e)~~

12 (e) A manufacturer shall only be liable for functionality provided  
13 at the time of the original sale of a connected television and shall  
14 not be liable for functionality provided by applications *that the*  
15 *user chooses to use in the cloud or are* downloaded and installed  
16 by a user.

17 ~~(f)~~

18 (f) This ~~section~~ *chapter* shall not apply to any product or service  
19 provided by a company covered under Section 637.5 of the Penal  
20 Code.

21 22948.21. For purposes of this chapter, the following  
22 definitions shall apply:

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

30 (b) “User” means a person who *originally* purchases, leases, or  
31 takes ownership of a connected television. A person who is  
32 incidentally recorded when a voice recognition feature is activated  
33 by a user shall not be deemed to be a user.

34 (c) “Voice recognition feature” means the function of a  
35 connected television that allows the collection, recording, storage,  
36 analysis, transmission, interpretation, or other use of spoken words  
37 or other sounds, except that this term shall not include voice  
38 commands that are not recorded or transmitted beyond the  
39 connected television.

1 22948.22. Any waiver of the ~~prohibitions in Section 22948.21~~  
2 *provisions of this chapter* is contrary to public policy and void and  
3 unenforceable.

4 22948.23. (a) Actions for relief pursuant to this chapter may  
5 be prosecuted exclusively in a court of competent jurisdiction in  
6 a civil action brought in the name of the people of the State of  
7 California by the Attorney General or by any district attorney. This  
8 chapter shall not be deemed to create a private right of action, or  
9 limit any existing private right of action.

10 (b) A court may enjoin a person who *knowingly* engages, has  
11 engaged, or proposes to engage, in a violation of this chapter. The  
12 court may make any orders or judgments as may be necessary to  
13 prevent a violation of this chapter.

14 (c) A person who *knowingly* engages, has engaged, or proposes  
15 to engage, in a violation of this chapter shall be liable for a civil  
16 penalty not to exceed two thousand five hundred dollars (\$2,500)  
17 for each connected television sold or leased in violation of this  
18 chapter. If the action is brought by the Attorney General, the  
19 penalty shall be deposited into the General Fund. If the action is  
20 brought by a district attorney, the penalty shall be paid to the  
21 treasurer of the county in which the judgment was entered.

22 22948.24. The remedies or penalties provided by this chapter  
23 are cumulative to each other and to the remedies or penalties  
24 available under all other laws of the state.

25 22948.25. The provisions of this chapter are severable. If any  
26 provision of this chapter or its application are held to be invalid,  
27 that invalidity shall not affect other provisions or applications that  
28 can be given effect without the invalid provision or application.