

Assembly Bill No. 1116

CHAPTER 524

An act to add Chapter 35 (commencing with Section 22948.20) to Division 8 of the Business and Professions Code, relating to business.

[Approved by Governor October 6, 2015. Filed with
Secretary of State October 6, 2015.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1116, 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 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 providing the operation of a voice recognition feature within this state without prominently informing, during the initial setup or installation of a connected television, either the user or the person designated by the user to perform the initial setup or installation of the connected television. This bill would further prohibit 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 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.

The people of the State of California do enact as follows:

SECTION 1. Chapter 35 (commencing with Section 22948.20) is added to Division 8 of the Business and Professions Code, to read:

CHAPTER 35. CONNECTED TELEVISIONS

22948.20. (a) A person or entity shall not provide the operation of a voice recognition feature within this state without prominently informing, during the initial setup or installation of a connected television, either the user or the person designated by the user to perform the initial setup or installation of the connected television.

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

(c) Any actual recordings of spoken word collected through the operation of a voice recognition feature by a third party contracting with a manufacturer for the purpose of improving the voice recognition feature, including, but not limited to, the operation of an accessible user interface for people with disabilities, shall not be sold or used for any advertising purpose.

(d) A person or entity shall not compel a manufacturer or other entity 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.

(e) 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 that the user chooses to use in the cloud or are downloaded and installed by a user.

(f) This chapter 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.

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

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

22948.22. Any waiver of the provisions of this chapter is contrary to public policy and void and unenforceable.

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

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

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

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

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