S T A T E O F N E W Y O R K

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I N S E N A T E

May 25, 2016

Introduced by Sen. GALLIVAN -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

AN ACT to amend the general business law, in relation to the use of voice recognition features

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. The general business law is amended by adding a new article 32-A to read as follows:

ARTICLE 32-A

VOICE RECOGNITION FEATURES

SECTION 676. USE OF VOICE RECOGNITION FEATURES IN PRODUCTS.

S 676. USE OF VOICE RECOGNITION FEATURES IN PRODUCTS. 1. FOR PURPOSES OF THIS SECTION, THE FOLLOWING DEFINITIONS SHALL APPLY:

(A) "CONNECTED DEVICE" SHALL MEAN A TELEVISION, VIDEO GAME CONSOLE AS DEFINED IN SECTION THREE HUNDRED NINETY-SIX-KK OF THIS CHAPTER, COMPUTER AS DEFINED IN SECTION THREE HUNDRED NINETY-TWO-A OF THIS CHAPTER, COMPUTER ACCESSORY AS DEFINED IN SECTION THREE HUNDRED NINETY-TWO-A OF THIS CHAPTER, OR INTERNET-CAPABLE DEVICE AS DEFINED IN SECTION FIVE HUNDRED THIRTY-EIGHT-B OF THIS CHAPTER.

(B) "USER" MEANS A PERSON WHO ORIGINALLY PURCHASES, LEASES, OR TAKES OWNERSHIP OF A CONNECTED DEVICE. 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 DEVICE THAT ALLOWS THE COLLECTION, RECORDING, STORAGE, ANALYSIS, TRANSMISSION, INTERPRETATION, OR OTHER USE OF SPOKEN WORDS OR OTHER SOUNDS.

2. (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 DEVICE, EITHER THE USER OR THE PERSON DESIGNATED BY THE USER TO PERFORM THE INITIAL SETUP OR INSTALLATION OF THE CONNECTED DEVICE.

(B) ANY ACTUAL RECORDINGS OF SPOKEN WORD COLLECTED THROUGH THE OPERATION OF A VOICE RECOGNITION FEATURE BY THE MANUFACTURER OF A CONNECTED DEVICE SHALL NOT BE SOLD OR USED FOR ANY ADVERTISING PURPOSE.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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(C) ANY ACTUAL RECORDINGS OF SPOKEN WORD COLLECTED THROUGH THE OPERATION OF A VOICE RECOGNITION FEATURE BY A THIRD PARTY CONTRACTING WITH THE MANUFACTURER OF A CONNECTED DEVICE SHALL NOT BE SOLD OR USED FOR ANY ADVERTISING PURPOSE.

(D) A MANUFACTURER SHALL ONLY BE LIABLE FOR FUNCTIONALITY PROVIDED AT THE TIME OF THE ORIGINAL SALE OF A CONNECTED DEVICE AND SHALL NOT BE LIABLE FOR FUNCTIONALITY PROVIDED BY APPLICATIONS THAT THE USER CHOOSES TO USE OR ARE DOWNLOADED AND INSTALLED BY A USER.

3. NOTHING IN THIS SECTION SHALL BE CONSTRUED SO AS TO PREVENT ANY ACTION PURSUANT TO A SUBPOENA OR BY A LAW ENFORCEMENT AGENCY, OR ANY OFFICER, EMPLOYEE, OR AGENT OF SUCH AGENCY, TO OBTAIN RECORDINGS FROM A MANUFACTURER IN CONNECTION WITH THE PERFORMANCE OF THE OFFICIAL DUTIES THEREOF, IN ACCORDANCE WITH OTHER APPLICABLE LAWS.

4. (A) WHENEVER THE ATTORNEY GENERAL SHALL BELIEVE FROM EVIDENCE SATISFACTORY TO HIM OR HER THAT THERE IS A VIOLATION OF THIS SECTION, HE OR SHE MAY BRING AN ACTION IN THE NAME AND ON BEHALF OF THE PEOPLE OF THE STATE OF NEW YORK, IN A COURT OF COMPETENT JURISDICTION TO ENJOIN AND RESTRAIN THE CONTINUATION OF SUCH VIOLATION. IN SUCH ACTION, PRELIMINARY RELIEF MAY BE GRANTED UNDER ARTICLE SIXTY-THREE OF THE CIVIL PRACTICE LAW AND RULES. IN SUCH ACTION, THE COURT MAY AWARD REASONABLE ATTORNEY'S FEES AND DAMAGES FOR ACTUAL COSTS OR LOSSES INCURRED BY THE CONSUMER. WHENEVER THE COURT SHALL DETERMINE IN SUCH ACTION THAT A PERSON OR BUSINESS VIOLATED THIS SECTION, THE COURT MAY IMPOSE A CIVIL PENALTY OF TWO THOUSAND FIVE HUNDRED DOLLARS PER VIOLATION.

(B) THE REMEDIES PROVIDED BY THIS SUBDIVISION SHALL BE IN ADDITION TO ANY OTHER LAWFUL REMEDY AVAILABLE.

S 2. This act shall take effect on the thirtieth day after it shall have become a law.