

# STATE OF NEW YORK

4137

2021-2022 Regular Sessions

## IN ASSEMBLY

February 1, 2021

Introduced by M. of A. LAVINE, TAYLOR, DARLING, FERNANDEZ, JACOBSON, GLICK, BENEDETTO, EPSTEIN, L. ROSENTHAL, SIMON, HUNTER, GOTTFRIED, CAHILL, BYRNES, DeSTEFANO, NORRIS, SMULLEN -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to requiring manufacturers of smart speakers to obtain permission from users before storing recordings

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general business law is amended by adding a new section  
2 349-b-2 to read as follows:

3 § 349-b-2. Recordings by smart speakers. 1. For the purposes of this  
4 section, the following terms shall have the following meanings:

5 (a) "Connected television" means a video device designed for home use  
6 to receive television signals and reproduce such signals on an inte-  
7 grated, physical screen display that exceeds twelve inches, except that  
8 this term shall not include a personal computer, portable device, or a  
9 separate device that connects physically or wirelessly to a television,  
10 including, but not limited to, a set-top box, video game console, or  
11 digital video recorder.

12 (b) "Other connected device with a voice recognition feature" means  
13 any device equipped with a voice recognition feature sold in this state,  
14 including, but not limited to, a wireless speaker and voice command  
15 device sold in this state with an integrated virtual assistant that  
16 offers interactive actions and hands-free activation, or a cellular  
17 telephone, tablet, or other device sold in this state with an integrated  
18 virtual assistant that offers interactive actions and hands-free acti-  
19 vation.

20 (c) "Retained" means saving, storing, or both of voice recorded data  
21 longer than the minimum time necessary to complete a requested command  
22 by the user.

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

LBD02806-01-1

1 (d) "User" means a person who originally purchases, leases, or takes  
2 ownership of a connected television or other connected device with a  
3 voice recognition feature or another person designated by such user to  
4 perform the initial setup or installation of such connected television  
5 or other connected device. A person who is incidentally recorded when a  
6 voice recognition feature is activated by a user shall not be deemed to  
7 be a user.

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

15 (f) "Voice recorded data" means audio recordings or transcriptions of  
16 such recordings collected through the operation of a voice recognition  
17 feature by the manufacturer of a connected television or other connected  
18 device with a voice recognition feature.

19 2. (a) No person or entity shall provide the operation of a voice  
20 recognition feature within this state without prominently informing,  
21 during the initial setup or installation of a connected television or  
22 other connected device with a voice recognition feature, either the user  
23 or the person designated by such user to perform the initial setup or  
24 installation of such connected television or other connected device with  
25 a voice recognition feature of such voice recognition feature.

26 (b) Any actual recordings or transcriptions collected through the  
27 operation of a voice recognition feature by the manufacturer of a  
28 connected television or other connected device with a voice recognition  
29 feature for the purpose of improving the voice recognition feature,  
30 including, but not limited to, the operation of an accessible user  
31 interface for people with disabilities, shall not be used for any adver-  
32 tising purpose, retained, or shared with, or sold to, a third party, or  
33 both shared with, and sold to, a third party, unless the user first  
34 provides affirmative written or electronic consent.

35 (c) Any actual recordings or transcriptions collected through the  
36 operation of a voice recognition feature by a third party contracting  
37 with a manufacturer for the purpose of improving the voice recognition  
38 feature, including, but not limited to, the operation of an accessible  
39 user interface for people with disabilities, shall not be used for any  
40 advertising purpose, retained, or shared with, or sold to, a third  
41 party, or both shared with, and sold to, a third party, unless the user  
42 first provides affirmative written or electronic consent.

43 (d) No person or entity shall compel a manufacturer or other entity  
44 providing the operation of a voice recognition feature to build specific  
45 features for the purpose of allowing an investigative or law enforcement  
46 officer to monitor communications through that feature.

47 (e) A manufacturer shall only be liable for functionality provided at  
48 the time of the original sale of a connected television or other  
49 connected device with a voice recognition feature and shall not be  
50 liable for functionality provided by applications that the user chooses  
51 to download and install or which are maintained and controlled at another  
52 location by third party servers.

53 3. (a) Actions for relief pursuant to this section may be prosecuted  
54 exclusively in a court of competent jurisdiction in a civil action  
55 brought in the name of the people of the state of New York by the attor-

1 ney general. This section shall not be deemed to create a private right  
2 of action, or limit any existing private right of action.

3 (b) A court of competent jurisdiction may enjoin any person or entity  
4 who knowingly engages, has engaged, or proposes to engage, in a  
5 violation of this section. Such court may make any orders or judgments  
6 as may be necessary to prevent a violation of this section.

7 (c) A person who knowingly engages, has engaged, or proposes to  
8 engage, in a violation of this section shall be liable for a civil  
9 penalty not to exceed two thousand five hundred dollars for each  
10 connected television or other connected device with a voice recognition  
11 feature sold or leased in violation of this section.

12 § 2. This act shall take effect immediately.