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:

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

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

(a) "Connected television" means a video device designed for home use to receive television signals and reproduce such signals on an integrated, physical screen display that exceeds twelve 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) "Other connected device with a voice recognition feature" means any device equipped with a voice recognition feature sold in this state, including, but not limited to, a wireless speaker and voice command device sold in this state with an integrated virtual assistant that offers interactive actions and hands-free activation, or a cellular telephone, tablet, or other device sold in this state with an integrated virtual assistant that offers interactive actions and hands-free activation.

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

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

LBD02806-01-1

(d) "User" means a person who originally purchases, leases, or takes ownership of a connected television or other connected device with a voice recognition feature or another person designated by such user to perform the initial setup or installation of such connected television or other 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.

(e) "Voice recognition feature" means the function of a connected television or other connected device with a voice recognition feature 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 or other connected device with a voice recognition feature.

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

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

(b) Any actual recordings or transcriptions collected through the operation of a voice recognition feature by the manufacturer of a connected television or other connected device with a voice recognition feature 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 used for any advertising purpose, retained, or shared with, or sold to, a third party, or both shared with, and sold to, a third party, unless the user first provides affirmative written or electronic consent.

(c) Any actual recordings or transcriptions 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 used for any advertising purpose, retained, or shared with, or sold to, a third party, or both shared with, and sold to, a third party, unless the user first provides affirmative written or electronic consent.

(d) No person or entity shall 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 or other connected device with a voice recognition feature and shall not be liable for functionality provided by applications that the user chooses to download and install or which are maintained and controlled at another location by third party servers.

3. (a) Actions for relief pursuant to this section 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 New York by the attor-

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

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

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

§ 2. This act shall take effect immediately.