

ASSEMBLY, No. 4677

STATE OF NEW JERSEY 217th LEGISLATURE

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Sponsored by:

Assemblyman RONALD S. DANCER

District 12 (Burlington, Middlesex, Monmouth and Ocean)

SYNOPSIS

Prohibits television voice recognition features from collecting or recording users without notice; prohibits use or sale of recordings for advertising purposes.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning televisions and consumer notification and
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).
3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*
5 *of New Jersey:*
6

7 1. a. Except for voice commands that are not recorded or
8 transmitted beyond the connected television, it shall be an unlawful
9 practice and a violation of P.L.1960, c.39 (C.56:8-1 et seq.) for a
10 person to sell or offer for sale voice recognition features in a
11 connected television without clearly and conspicuously:

12 (1) notifying the user, or a person designated by the user, of the
13 voice recognition features prior to the installation or initial setup of
14 the connected television and its voice recognition features; and

15 (2) obtaining consent from the user to activate the voice
16 recognition features and any associated data collection at the time
17 of installation or initial setup of the connected television and its
18 voice recognition features.

19 b. It shall be an unlawful practice and a violation of
20 P.L.1960, c.39 (C.56:8-1 et seq.) for a manufacturer, or a third party
21 that contracts with a manufacturer, to provide voice recognition
22 features and use or sell any spoken word or other sound recorded by
23 a connected television or its voice recognition features for any
24 advertising purpose, including for the purpose of improving the
25 function, operation, or features of the connected television, or for
26 the provision of an accessible user interface for people with
27 disabilities.

28 c. A manufacturer shall be liable only for functionality
29 provided at the time of the original sale of a connected television
30 and its voice recognition features and shall not be liable for
31 functionality provided by applications downloaded and installed by
32 a user.

33 d. A manufacturer shall establish privacy controls to limit risks
34 associated with the collection and protection of confidential
35 personal information.

36 e. As used in this section:

37 “Connected television” means a video device designed for home
38 use to receive television signals and reproduce them on an
39 integrated, physical screen display that exceeds 12 inches. A
40 “connected television” excludes any personal computer, portable
41 device, or a separate device that connects physically or wirelessly to
42 a television, including, but not limited to, a set-top box, video game
43 console, or digital video recorder.

44 “Manufacturer” means a manufacturer of connected televisions.

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

1 “Voice recognition feature” means the function of a connected
2 television that allows the collection, recording, storage, analysis,
3 transmission, interpretation, or other use of spoken words or other
4 sounds, except that this term shall not include voice commands that
5 are not recorded or transmitted beyond the connected television.
6

7 2. This act shall take effect on the first day of the fifth month
8 next following the date of enactment.
9

10 11 STATEMENT 12

13 This bill makes it an unlawful practice and a violation of the
14 consumer fraud act to sell or offer for sale voice recognition
15 features in a connected television without clearly and conspicuously
16 notifying the user, or a person designated by the user, and obtaining
17 consent prior to or at the time of installation or initial setup of the
18 connected television and its voice recognition features. The bill
19 defines a connected television as a video device designed for home
20 use to receive television signals and reproduce them on an
21 integrated, physical screen display that exceeds 12 inches, and
22 excludes any personal computer, portable device, or a separate
23 device that connects physically or wirelessly to a television, such as
24 a set-top box, video game console, or digital video recorder. Voice
25 commands that are not recorded or transmitted beyond the
26 connected television would not be subject to the bill’s provisions.

27 This bill also makes it an unlawful practice for a manufacturer of
28 connected televisions, or a third party that contracts with a
29 manufacturer, to provide voice recognition features and use or sell
30 any spoken word or other sound recorded by the connected
31 television or its voice recognition features for any advertising
32 purpose, including for the purpose of improving the function,
33 operation, or features of the connected television.

34 The bill limits the liability of a manufacturer to functionality
35 provided at the time of the original sale of a connected television
36 and specifically excludes liability for functionality provided by
37 applications downloaded and installed by a user. The bill further
38 requires a manufacturer to establish privacy controls to limit risks
39 associated with the collection and protection of confidential
40 personal information.

41 Under the bill, a “voice recognition feature” is defined to mean
42 the function of a connected television that allows the collection,
43 recording, storage, analysis, transmission, interpretation, or other
44 use of spoken words or other sounds, and excludes voice commands
45 that are not recorded or transmitted beyond the connected
46 television.

47 An unlawful practice under the consumer fraud act is punishable
48 by a monetary penalty of not more than \$10,000 for a first offense

1 and not more than \$20,000 for any subsequent offense.
2 Additionally, violations can result in cease and desist orders issued
3 by the Attorney General, the assessment of punitive damages, and
4 the awarding of treble damages and costs to the injured party.

5 It is the sponsor's intent to protect consumers' personal privacy,
6 as underscored by the recent settlement between VIZIO, Inc. and
7 the Federal Trade Commission and the New Jersey Attorney
8 General and Director of Consumer Affairs. The court determined
9 that VIZIO participated in deceptive, unfair, and unconscionable
10 practices, in violation of federal law and the State's consumer fraud
11 act, by collecting and sharing consumers' viewing data and
12 misleading consumers about its "Smart Interactivity" feature. The
13 complaint alleged that VIZIO smart TVs captured second-by-
14 second information about video displayed on the smart TV, and
15 then VIZIO facilitated appending specific demographic information
16 to the viewing data, such as sex, age, income, marital status,
17 household size, education level, home ownership, and household
18 value. According to the complaint, VIZIO subsequently sold this
19 information to third parties who used it for various purposes,
20 including targeting advertising to consumers across devices,.
21 VIZIO's "Smart Interactivity" was marketed as enabling "program
22 offers and suggestions" but failed to inform consumers that the
23 settings also enabled the collection of consumers' viewing data.
24 Under the court's order, VIZIO is to prominently disclose and
25 obtain affirmative express consent for its data collection and
26 sharing practices. Further, VIZIO is directed to delete data collected
27 before March 1, 2016, and implement a comprehensive data privacy
28 program.