100TH GENERAL ASSEMBLY
State of Illinois
2017 and 2018

HB3819


SYNOPSIS AS INTRODUCED:

New Act

Creates the Microphone-Enabled Devices Act. Contains legislative findings and defines terms. Requires that a private entity give written notice to and obtain the informed consent of a user before enabling the microphone in the user's device. Provides for a private right of action for damages, attorney's fees, and injunctive relief. Excludes State agencies and units of local government. Effective immediately.

LRB100 10667 JLS 20891 b
AN ACT concerning business.

Be it enacted by the People of the State of Illinois, represented in the General Assembly:

Section 1. Short title. This Act may be cited as the Microphone-Enabled Devices Act.

Section 5. Legislative findings. The General Assembly finds all the following:

(1) An increasing number of everyday household devices, such as smartphones, televisions, cars, toys, and home appliances, are being enhanced by speech recognition and other technologies that use microphones to listen for environmental triggers. As a result, private companies are gaining unprecedented and near constant access to consumers' private lives, including what they do in their homes and their daily habits.

(2) While there are tremendous benefits from these technologies, many pose serious privacy risks to Illinois citizens. The increasing prevalence of these technologies in everyday devices enables companies to collect, store, analyze, and share increasing amounts of personal data, often without consumers ever knowing.

(3) The public welfare, security, and safety will be served by regulating the use, collection, and sharing of
information derived from this technology.

Section 10. Definitions. In this Act:

"Digital device" means a smartphone, tablet, television, computer, car, toy, home appliance, or any other device that contains a microphone.

"Private entity" means any individual, partnership, corporation, limited liability company, association, or other group, however organized. "Private entity" does not include a State or local government agency.

"User" means a person who purchases, leases, or otherwise regularly uses a digital device.

Section 15. Collection, use, storage, or disclosure of information from a digital device's microphone. No private entity may turn on or enable, cause to be turned on or enabled, or otherwise use a digital device's microphone to listen or collect information unless it first:

(1) informs the user in writing that the microphone in the user's digital device will be turned on, enabled, or used;

(2) informs the user in writing of the frequency and length of time the microphone will be turned on, enabled, or used;

(3) informs the user in writing of the specific categories of information the microphone will be listening
(4) informs the user in writing of the specific purpose for which the information will be collected, used, stored, and disclosed; and

(5) receives the informed, written consent (including through an electronic means using the Internet) of the user, or the user's authorized agent, representative, or guardian, that:

(A) is in a form distinct and separate from any form setting forth other legal or financial obligations of the user; and

(B) is given at the time the microphone will be turned on, enabled or used, or in advance for a set period of time or until consent is withdrawn by the user, whichever is sooner.

Section 20. Right of action. Any user whose rights under this Act are violated shall have a right of action against an offending party and may recover:

(1) liquidated damages of $5,000 or actual damages, whichever are greater;

(2) reasonable attorney's fees and costs; and

(3) other relief, including an injunction, as the court may deem appropriate.

Section 25. Applicability of Act; waiver.
(a) Any waiver of the provisions of this Act shall be void and unenforceable.

(b) Any agreement that does not comply with the applicable provisions of this Act is void and unenforceable.

(c) Nothing in this Act shall be construed to apply to a contractor, subcontractor, or agent of a State agency or unit of local government when working for that State agency or unit of local government.

Section 99. Effective date. This Act takes effect upon becoming law.