

HB3819



100TH GENERAL ASSEMBLY

State of Illinois

2017 and 2018

HB3819

by Rep. Jaime M. Andrade, Jr.

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

A BILL FOR

1 AN ACT concerning business.

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

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

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

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

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

22 (3) The public welfare, security, and safety will be
23 served by regulating the use, collection, and sharing of

1 information derived from this technology.

2 Section 10. Definitions. In this Act:

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

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

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

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

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

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

23 (3) informs the user in writing of the specific
24 categories of information the microphone will be listening

1 for, collecting, and storing;

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

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

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

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

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

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

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

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

24 Section 25. Applicability of Act; waiver.

1 (a) Any waiver of the provisions of this Act shall be void
2 and unenforceable.

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

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

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