

By: Morales Shaw

H.B. No. 5300

A BILL TO BE ENTITLED

AN ACT

relating to requiring operators of smart devices to provide information to users about the collection of personal data.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Title 12, Business & Commerce Code, is amended by adding Chapter 610 to read as follows:

CHAPTER 610. SMART DEVICE DATA COLLECTION TRANSPARENCY

Sec. 610.001. DEFINITIONS. In this chapter:

(1) "Personal data" means information relating to a user's active or passive usage of a smart device.

(2) "Smart device" means a home appliance, consumer electronic device, or wearable device that:

(A) connects to the Internet;

(B) collects and stores biometrics, data, images, sound, video, or voice recordings in the course of its operation; and

(C) has the ability to transmit data to the device's manufacturer or retailer or to a third party, regardless of whether this feature is enabled.

(3) "Smart device operator" means:

(A) the manufacturer of a smart device; or

(B) another person who:

(i) remotely operates, monitors, or updates the smart device;

1 (ii) provides physical or digital services
2 to a user of a smart device; or

3 (iii) receives, or has the capacity to
4 receive, the personal data of the user of a smart device.

5 (4) "User" means an individual who:

6 (A) purchases a smart device;

7 (B) actively or passively uses a smart device;

8 (C) lives in a dwelling to which a smart device is
9 fixed, or where a smart device is regularly used; or

10 (D) wears a smart device.

11 Sec. 610.002. APPLICABILITY. (a) This chapter applies to a
12 smart device operator who:

13 (1) does business in this state;

14 (2) manufactures, sells, or operates a smart device in
15 this state; or

16 (3) processes or engages in the sale of personal data
17 captured by a smart device used in this state.

18 (b) This chapter does not apply to a state agency, a
19 political subdivision of this state, or a utility provider doing
20 business in this state.

21 Sec. 610.003. REQUIREMENT TO SUMMARIZE PERSONAL DATA
22 COLLECTION. (a) A smart device operator shall develop and offer to
23 users a mobile application that provides a user with information
24 regarding:

25 (1) the nature of the personal data collected by the
26 smart device;

27 (2) the purposes for which the personal data is

1 collected and stored;

2 (3) the methods by which a user's personal data is
3 captured, including the use of any audio, biometric, or video
4 recording devices;

5 (4) the personal data stored by the smart device
6 operator;

7 (5) whether the personal data is stored locally on the
8 smart device or transmitted to another location;

9 (6) the security and privacy policies governing the
10 storage of the personal data;

11 (7) the identity of all persons with the ability to
12 access the personal data; and

13 (8) the identity of all third parties with which a
14 user's personal data is shared, including whether the personal data
15 is anonymized before being shared with the third party.

16 (b) The mobile application must provide the user with
17 information updated at least once a month.

18 (c) The mobile application must allow a user to:

19 (1) view the information described by Subsection (a);

20 (2) stop the acquisition of personal data through the
21 smart device; and

22 (3) stop the use of any audio, biometric, or video
23 recording features on the smart device.

24 Sec. 610.004. USER NOTIFICATION. (a) On at least a
25 quarterly basis, a smart device operator shall notify each user for
26 which the operator has contact information of the availability of
27 the mobile application and the methods by which the application may

1 be used to customize personal data collection and sharing.

2 (b) The notification under Subsection (a) must:

3 (1) be sent to the user by text message, e-mail, or
4 regular mail; and

5 (2) be sent in a communication containing only the
6 notification required under Subsection (a).

7 SECTION 2. This Act takes effect September 1, 2023.