

ASSEMBLY, No. 2951

STATE OF NEW JERSEY 220th LEGISLATURE

INTRODUCED FEBRUARY 28, 2022

Sponsored by:

Assemblywoman NANCY F. MUNOZ

District 21 (Morris, Somerset and Union)

Co-Sponsored by:

Assemblyman Thomson

SYNOPSIS

“Microphone-Enabled Devices Act”; requires user consent before enabling device microphone.

CURRENT VERSION OF TEXT

As introduced.



1 AN ACT concerning consumer electronics and supplementing
2 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. This act shall be known and may be cited as the
8 “Microphone-Enabled Devices Act.”

9

10 2. The Legislature finds and declares:

11 a. An increasing number of everyday household devices, such
12 as smartphones, televisions, motor vehicles, toys, and home
13 appliances, are being enhanced by speech recognition and other
14 technologies that use microphones to listen for environmental
15 triggers.

16 b. As a result of the increased use of microphone-enabled
17 device technology, private companies are gaining unprecedented
18 and near constant access to consumers’ private lives, including what
19 consumers do in their homes and their daily habits.

20 c. While there are tremendous benefits of microphone-enabled
21 device technology, the growing prevalence of this technology in
22 everyday devices enables companies to collect, store, analyze, and
23 share increasing amounts of personal data, often without consumers
24 ever knowing, which poses serious privacy risks to the public.

25 d. The public welfare, security, and safety will be enhanced by
26 regulating the use, collection, and sharing of information derived
27 from this technology.

28

29 3. As used in this act:

30 “Digital device” means a smartphone, tablet, television,
31 computer, motor vehicle, toy, home appliance, or any other device
32 that contains a microphone.

33 “User” means a person who purchases, leases, or otherwise
34 regularly uses a digital device.

35

36 4. It is an unlawful practice and a violation of P.L.1960, c.39
37 (C.56:8-1 et seq.) to activate or enable, cause to be turned on or
38 enabled, or otherwise use the microphone of a digital device to
39 listen or collect information before:

40 a. informing the user in writing:

41 (1) that the microphone in the user’s digital device will be
42 activated, enabled, or used;

43 (2) of the frequency and length of time the microphone will be
44 activated, enabled, or used;

45 (3) of the specific categories of information the microphone will
46 be detecting, collecting, and storing; and

47 (4) of the specific purpose for which the information will be
48 collected, used, stored, and disclosed; and

1 b. receiving the informed, written consent of the user, or the
2 user's authorized agent, representative, or guardian, including
3 through an electronic means using the Internet, that is:

4 (1) in a form distinct and separate from any document setting
5 forth other legal or financial obligations of the user; and

6 (2) given in advance of or at the time the microphone is
7 activated, enabled, or used, for a set period of time or until consent
8 is withdrawn by the user, whichever is sooner.

9
10 5. a. Any waiver of the provisions of P.L. , c. (C.)
11 (pending before the Legislature as this bill) shall be void and
12 unenforceable.

13 b. Any agreement that does not comply with the applicable
14 provisions of P.L. , c. (C.) (pending before the Legislature
15 as this bill) shall be void and unenforceable.

16 c. Nothing in P.L. , c. (C.) (pending before the
17 Legislature as this bill) shall be construed to apply to a contractor,
18 subcontractor, or agent of the State or a local government in the
19 course of the person's official duties.

20
21 6. This act shall take effect immediately.

22
23

24 STATEMENT

25
26 This bill, to be known and cited as the "Microphone-Enabled
27 Devices Act," requires a user to consent to a digital device
28 microphone listening or collecting information before being enabled
29 or activated.

30 The bill makes it an unlawful practice under the consumer fraud
31 act to activate or enable, cause to be activated or enabled, or
32 otherwise use a digital device's microphone to listen or collect
33 information before informing the user and receiving her or his
34 informed, written consent. The bill defines a "digital device" as a
35 smartphone, tablet, television, computer, vehicle, toy, home
36 appliance, or any other device that contains a microphone.

37 Under the bill, a user is to be informed:

38 (1) that the microphone in the device will be turned on, enabled,
39 or used;

40 (2) of the frequency and length of time the microphone will be
41 activated, enabled, or used;

42 (3) of the specific categories of information the microphone will
43 be detecting, collecting, and storing; and

44 (4) of the specific purpose for which the information will be
45 collected, used, stored, and disclosed.

46 The user, or the user's authorized agent, representative, or
47 guardian, is required to provide informed, written consent,
48 including through an electronic means using the Internet, that is in a

1 distinct and separate form. This consent is to be given by a
2 consumer in advance of or at the time the microphone is used, for a
3 set period of time, or until consent is withdrawn by the user,
4 whichever is sooner.

5 Further, any agreement that does not comply with or waives the
6 bill's provisions is void and unenforceable.

7 An unlawful practice is punishable by a monetary penalty of not
8 more than \$10,000 for a first offense and not more than \$20,000 for
9 any subsequent offense. In addition, violations may result in cease
10 and desist orders issued by the Attorney General, the assessment of
11 punitive damages, and the awarding of treble damages and costs to
12 the injured party.