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# A BILL FOR AN ACT

RELATING TO CONSUMER PROTECTION.

**BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:**

1           SECTION 1. Chapter 481B, Hawaii Revised Statutes, is  
2 amended by adding a new section to part I to be appropriately  
3 designated and to read as follows:

4           "§481B- Smart household security devices; data sharing  
5 with law enforcement; prohibition; penalties. (a) An operator  
6 shall not share smart household security device user data with a  
7 law enforcement agency unless:

8           (1) The user consents in writing to share their data with  
9 a law enforcement agency;

10          (2) The law enforcement agency provides the operator with  
11 a judicial warrant requiring the operator to share the  
12 data with the law enforcement agency; or

13          (3) There is an emergency situation; provided that:

14           (A) The emergency involves a clear and present danger  
15 of imminent death or serious bodily harm to a  
16 person or persons resulting from a kidnapping, an



1                   abduction, or the holding of a hostage by force  
2                   or the threat of the imminent use of force;

3           (B) There was no prior notice of the emergency  
4                   sufficient to obtain prior judicial approval, and  
5                   the law enforcement officer reasonably believes  
6                   that an order permitting the obtaining of smart  
7                   household security device data would be issued  
8                   were there prior judicial review;

9           (C) The smart household security device data is  
10                   necessary and the only potential data available  
11                   to prevent imminent death or serious bodily harm  
12                   to a person or persons; and

13           (D) The smart household security device data must and  
14                   can be accessed before a judicial warrant could  
15                   be issued to prevent imminent death or serious  
16                   bodily harm to a person or persons.

17           (b) An operator shall not require a user to consent to the  
18                   sharing of smart household security device data with a law  
19                   enforcement agency as a condition of using a smart household  
20                   security device. An operator shall clearly and conspicuously  
21                   inform the user, through a visible disclaimer, that the user is



1 not required to consent to sharing data with a law enforcement  
2 agency and that refusing to consent will not terminate the  
3 user's ability to use the smart household security device.

4 (c) Notwithstanding section 480-2 or any law to the  
5 contrary, and notwithstanding subsection (d), no person,  
6 including a consumer, may bring a private action to enforce this  
7 section or a private action under any other law based on a  
8 violation of this section.

9 (d) The duties, remedies, and obligations imposed by this  
10 section shall be cumulative to the duties, remedies, or  
11 obligations imposed under other law and shall not be construed  
12 to relieve an operator from any duties, remedies, or obligations  
13 imposed under any other law.

14 (e) For the purposes of this section:

15 "Judicial warrant" means an order in writing or otherwise  
16 pursuant to section 803-33.5 made by a judge or other  
17 magistrate, or a warrant issued pursuant to Rule 41 of the  
18 Federal Rules of Criminal Procedure.

19 "Law enforcement agency" means any county police  
20 department, the department of law enforcement, and any federal,



1 state, or county public body that employs law enforcement  
2 officers.

3 "Law enforcement officer" means any public servant, whether  
4 employed by the United States, the State, or a county, who is  
5 vested by law with a duty to maintain public order or to make  
6 arrests for offenses or to enforce the criminal laws, whether  
7 that duty extends to all offenses or is limited to a specific  
8 class of offenses.

9 "Operator" means a person who develops, makes available, or  
10 operates a smart household security device to the public and who  
11 collects, retains, or controls access to smart household  
12 security device data associated with a user account profile.

13 "Operator" does not include a retail store solely because the  
14 retail store provides access to or sells a smart household  
15 security device.

16 "Smart household security device" means a device primarily  
17 intended for residential security or monitoring that:

18 (1) Is installed or affixed to a residential dwelling,  
19 accessory structure, or entryway;

20 (2) Continuously or intermittently captures visual images  
21 or audio recordings, or both; and



1       (3) Enables storage, transmission, or remote access to the  
2           recordings through a digital networked system.

3       "Smart household security device" does not include a personal  
4       computing device, tablet, or mobile phone when used incidentally  
5       for recording; a device used solely for live two-way  
6       communication without recording capability; or a device owned or  
7       operated by a government entity for public surveillance.

8       "User" means a person who has, or generates, an account or  
9       profile to use a smart household security device."

10       SECTION 2. If any provision of this Act, or the  
11 application thereof to any person or circumstance, is held  
12 invalid, the invalidity does not affect other provisions or  
13 applications of the Act that can be given effect without the  
14 invalid provision or application, and to this end the provisions  
15 of this Act are severable.

16       SECTION 3. This Act does not affect rights and duties that  
17 matured, penalties that were incurred, and proceedings that were  
18 begun before its effective date.

19       SECTION 4. New statutory material is underscored.

20       SECTION 5. This Act shall take effect on July 1, 3000.



**Report Title:**

AG; OCP; Unfair or Deceptive Practices; Smart Household Security Device Data; Prohibition; Consent; Law Enforcement Agencies; Warrants; Emergency Situation

**Description:**

Prohibits operators of smart household security devices from sharing user data with law enforcement agencies unless the user consents, the law enforcement agency obtains a judicial warrant, or there is an emergency situation involving a clear and present danger of imminent death or great bodily harm. Prohibits operators from requiring users to consent to the sharing of data with law enforcement agencies as a condition of using a smart household security device. Effective 7/1/3000. (HD2)

*The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.*

