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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:

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



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

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

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

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

18          (b) An operator shall not require a user to consent to  
19          share smart household security device data with a law  
20          enforcement agency to use a smart household security device. An  
21          operator shall clearly and conspicuously, through a visible



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

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

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

15 (e) For the purposes of this section:

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

20 "Law enforcement agency" means any county police  
21 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, vested by  
5 law with a duty to maintain public order or, to make arrests for  
6 offenses or to enforce the criminal laws, whether that duty  
7 extends to all offenses or is limited to a specific class of  
8 offenses.

9 "Operator" means a person who develops or makes available a  
10 smart household security device to the public. "Operator" does  
11 not include retail stores solely because the retail store  
12 provides access to a smart household security device.

13 "Smart household security device" means a device primarily  
14 intended for residential security or monitoring that:

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

17 (2) Continuously or intermittently captures visual images  
18 or audio recordings, or both; and

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



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

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

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

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

17 SECTION 4. New statutory material is underscored.

18 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 share data with law enforcement agencies to use a smart household security device. Effective 7/1/3000. (HD1)

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

