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# A BILL FOR AN ACT

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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 user data with a law enforcement agency unless:

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

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

12       (b)   An operator shall not require a user to consent to  
13       share data with a law enforcement agency to use a smart  
14       household security device. An operator shall clearly and  
15       conspicuously, through a visible disclaimer, inform a user that  
16       they are not required to consent to share data with a law  
17       enforcement agency and that refusing to consent will not



1 terminate the user's ability to use the smart household security  
2 device.

3 (c) Any violation of this section shall be deemed an  
4 unfair or deceptive act or practice in trade or commerce in  
5 violation of chapter 480.

6 (d) The attorney general may bring an action based on a  
7 violation of this section to recover all of the following  
8 relief:

9 (1) Injunctive relief;

10 (2) Damages in an amount equal to the greater of:

11 (A) Actual damages; or

12 (B) A civil penalty of \$ \_\_\_\_\_ per violation; and

13 (3) Reasonable attorneys' fees and costs.

14 (e) Nothing in this section shall be interpreted as  
15 creating a private right of action to enforce this section or to  
16 support a private right of action under any other law.

17 (f) The duties, remedies, and obligations imposed by this  
18 section are cumulative to the duties, remedies, or obligations  
19 imposed under other law and shall not be construed to relieve an  
20 operator from any duties, remedies, or obligations imposed under  
21 any other law.



1        (g) For the purposes of this section:

2        "Judicial warrant" means an order in writing or otherwise  
3 pursuant to section 803-33.5 made by a judge or other  
4 magistrate, directed to an officer of justice, commanding the  
5 officer to search for certain articles supposed to be in the  
6 possession of, or anticipated to be in the possession of, one  
7 who is charged with having obtained them illegally, or who keeps  
8 them illegally, or with the intent of using them as the means of  
9 committing a certain offense; provided that a judicial warrant  
10 may identify an individual or entity authorized pursuant to  
11 section 803-37 to provide technical assistance to the officer.  
12 "Judicial warrant" includes a warrant issued pursuant to Rule 41  
13 of the Federal Rules of Criminal Procedure.

14        "Law enforcement agency" means any county police  
15 department, the department of law enforcement, and any federal,  
16 state, or county public body that employs law enforcement  
17 officers.

18        "Law enforcement officer" means any public servant, whether  
19 employed by the United States, State, or county, vested by law  
20 with a duty to maintain public order or, to make arrests for  
21 offenses or to enforce the criminal laws, whether that duty



1 extends to all offenses or is limited to a specific class of  
2 offenses.

3 "Operator" means a person who develops or makes available a  
4 smart household security device to the public. "Operator" does  
5 not include retail stores solely because the retail store  
6 provides access to a smart household security device.

7 "Smart household security device" means a device primarily  
8 intended for residential security or monitoring that:

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

11 (2) Continuously or intermittently captures visual images,  
12 audio recordings, or both; and

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

15 "Smart household security device" does not include a personal  
16 computing device, tablet, or mobile phone when used incidentally  
17 for recording; a device used solely for live two-way  
18 communication without recording capability; or a device owned or  
19 operated by a government entity for public surveillance.

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



1       SECTION 2. If any provision of this Act, or the  
2 application thereof to any person or circumstance, is held  
3 invalid, the invalidity does not affect other provisions or  
4 applications of the Act that can be given effect without the  
5 invalid provision or application, and to this end the provisions  
6 of this Act are severable.

7       SECTION 3. This Act does not affect rights and duties that  
8 matured, penalties that were incurred, and proceedings that were  
9 begun before its effective date.

10       SECTION 4. New statutory material is underscored.

11       SECTION 5. This Act shall take effect upon its approval.



**Report Title:**

AG; Smart Household Security Devices; Law Enforcement Agencies;  
Data Sharing; Prohibition; Unfair or Deceptive Practices;  
Penalties

**Description:**

Prohibits operators of smart household security devices from sharing user data with law enforcement agencies unless the user consents or the law enforcement agency obtains a judicial warrant. Prohibits operators from requiring users to consent to share data with law enforcement agencies to use a smart household security device. Allows the Department of the Attorney General to bring a civil action against operators who violate certain requirements and establishes statutory penalties. (Proposed SD1)

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

