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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; or

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.

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



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

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

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

10 (1) Injunctive relief;

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

12 (A) Actual damages; or

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

14 (3) Reasonable attorneys' fees and costs.

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

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



1 operator from any duties, remedies, or obligations imposed under  
2 any other law.

3 (g) For the purposes of this section:

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

8 "Law enforcement agency" means any county police  
9 department, the department of law enforcement, and any federal,  
10 state, or county public body that employs law enforcement  
11 officers.

12 "Law enforcement officer" means any public servant, whether  
13 employed by the United States, State, or county, vested by law  
14 with a duty to maintain public order or, to make arrests for  
15 offenses or to enforce the criminal laws, whether that duty  
16 extends to all offenses or is limited to a specific class of  
17 offenses.

18 "Operator" means a person who develops or makes available a  
19 smart household security device to the public. "Operator" does  
20 not include retail stores solely because the retail store  
21 provides access to a smart household security device.



1 "Smart household security device" means a device primarily  
2 intended for residential security or monitoring that:

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

5 (2) Continuously or intermittently captures visual images,  
6 audio recordings, or both; and

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

9 "Smart household security device" does not include a personal  
10 computing device, tablet, or mobile phone when used incidentally  
11 for recording; a device used solely for live two-way  
12 communication without recording capability; or a device owned or  
13 operated by a government entity for public surveillance.

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

16 SECTION 2. If any provision of this Act, or the  
17 application thereof to any person or circumstance, is held  
18 invalid, the invalidity does not affect other provisions or  
19 applications of the Act that can be given effect without the  
20 invalid provision or application, and to this end the provisions  
21 of this Act are severable.



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

4 SECTION 4. New statutory material is underscored.

5 SECTION 5. This Act shall take effect on July 1, 2050.



**Report Title:**

AG; OCP; 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 or the Office of Consumer Protection to bring a civil action against operators who violate certain requirements and establishes statutory penalties. Effective 7/1/2050. (SD2)

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

