

1 STATE OF OKLAHOMA

2 2nd Session of the 58th Legislature (2022)

3 HOUSE BILL 3009

By: Walke

4  
5 AS INTRODUCED

6 An Act relating to technology; creating a new title;  
7 creating the Voice Recognition Privacy Act of 2022;  
8 defining terms; regulating connected devices with  
9 voice recognition features; prohibiting voice  
10 recognition services without informing users;  
11 prohibiting use of personal information in voice  
12 recordings; directing that certain recordings be  
13 available to users; directing that users be allowed  
14 to delete recordings; prohibiting the use of  
15 incorrectly activated voice recordings; prohibiting  
16 compelling of manufacturers and service providers to  
17 allow use of technology by law enforcement; exempting  
18 certain instances of use of voice recordings by third  
19 parties from suit; exempting manufacturer liability  
20 for applications downloaded by users; exempting  
21 instances where affirmative consent has been granted;  
22 creating actions for relief to be brought by the  
23 Attorney General or district attorney; granting  
24 courts the ability to enjoin or make orders to  
prevent the violation of this act; creating a civil  
penalty for violation of this act; mandating certain  
disclosures; providing for noncodification; providing  
for codification; and providing an effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be  
codified in the Oklahoma Statutes reads as follows:

In publishing the decennial Oklahoma Statutes, and the  
cumulative supplements after July 1, 2022, West Publishing Company

1 shall include in such decennial statutes and supplements a new Title  
2 75A, to be designated "Technology".

3 SECTION 2. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 101 of Title 75A, unless there  
5 is created a duplication in numbering, reads as follows:

6 This act shall be known and may be cited as the "Voice  
7 Recognition Privacy Act of 2022".

8 SECTION 3. NEW LAW A new section of law to be codified  
9 in the Oklahoma Statutes as Section 102 of Title 75A, unless there  
10 is created a duplication in numbering, reads as follows:

11 As used in this act:

12 1. "Affirmative consent" means that a manufacturer of a  
13 connected television or smart speaker device has done all of the  
14 following:

15 a. clearly and conspicuously disclosed to the user,  
16 separate from the device terms of use, all of the  
17 following to the extent applicable:

18 (1) that the device may be used to process and retain  
19 user recordings,

20 (2) that the recordings described in division (1) of  
21 this subparagraph may be analyzed or shared with  
22 third parties,

23 (3) that the device may be used to process and retain  
24 transcriptions of spoken words, and

1 (4) that the transcriptions described in division (3)  
2 of this subparagraph may be analyzed or shared  
3 with third parties,

4 b. clearly and conspicuously disclosed to the user,  
5 separate from the device terms of use, the extent to  
6 which the device can operate in the absence of consent  
7 for each practice described in the disclosure required  
8 by subparagraph a of this paragraph,

9 c. received a freely given, specific, informed, and  
10 unambiguous indication of the user's wishes by which  
11 the user, including by a statement or by a clear  
12 affirmative action, signifies agreement to the  
13 processing of personal information relating to the  
14 user for each practice described in the disclosure  
15 required by subparagraph a of this paragraph. The  
16 following shall not satisfy the requirements of this  
17 paragraph:

18 (1) user's acceptance of a general or broad terms of  
19 use, or similar document, that contains  
20 descriptions of personal information processing  
21 along with other, unrelated information,

22 (2) user's hovering over, muting, pausing, or closing  
23 a given piece of content, and  
24

1 (3) user's agreement obtained through the use of dark  
2 patterns;

3 2. "Cloud computing storage service" has the same definition as  
4 the term is defined by the National Institute of Standards and  
5 Technology Special Publication 800-145, or a successor publication,  
6 and includes the service and deployment models referenced therein;

7 3. "Connected television" means a video device designed for  
8 home use to receive television signals and reproduce them on an  
9 integrated, physical screen display that exceeds twelve (12) inches,  
10 except that this term shall not include a personal computer,  
11 portable device, or a separate device that connects physically or  
12 wirelessly to a television, including, but not limited to, a set-top  
13 box, video game console, or digital video recorder;

14 4. "Dark pattern" means a user interface designed or  
15 manipulated with the substantial effect of subverting or impairing  
16 user autonomy, decision making, or choice;

17 5. "Deidentified" means information that cannot reasonably  
18 identify, relate to, describe, be capable of being associated with,  
19 or be linked, directly or indirectly, to a particular consumer;  
20 provided that a business that uses deidentified information:

21 a. has implemented technical safeguards that prohibit  
22 reidentification of the consumer to whom the  
23 information may pertain,  
24

- b. has implemented business processes that specifically prohibit reidentification of the information,
- c. has implemented business processes to prevent inadvertent release of deidentified information, and
- d. makes no attempt to reidentify the information;

6. "Personal information" means information that identifies, relates to, describes, is capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer or household. Personal information shall include, but not be limited to, the following if it identifies, relates to, describes, is capable of being associated with, or could be reasonably linked, directly or indirectly, with a particular consumer or household:

- a. identifiers such as a real name, alias, postal address, unique personal identifier, online identifier, Internet Protocol address, email address, account name, Social Security number, driver license number, passport number, or other similar identifiers,
- b. characteristics of protected classifications under Oklahoma or federal law,
- c. commercial information, including records of personal property, products or services purchased, obtained, or considered, or other purchasing or consuming histories or tendencies,

- 1 d. biometric information,
- 2 e. Internet or other electronic network activity
- 3 information, including, but not limited to, browsing
- 4 history, search history, and information regarding a
- 5 consumer's interaction with an Internet website,
- 6 application, or advertisement,
- 7 f. geolocation data,
- 8 g. audio, electronic, visual, thermal, olfactory, or
- 9 similar information,
- 10 h. professional or employment-related information,
- 11 i. education information, defined as information that is
- 12 not publicly available, personally identifiable
- 13 information as defined in the Family Educational
- 14 Rights and Privacy Act (20 U.S.C. Section 1232g, 34
- 15 C.F.R. Part 99), and
- 16 j. inferences drawn from any of the information
- 17 identified in this paragraph to create a profile about
- 18 a consumer reflecting the consumer's preferences,
- 19 characteristics, psychological trends,
- 20 predispositions, behavior, attitudes, intelligence,
- 21 abilities, and aptitudes.

22 Personal information does not include publicly available information  
23 that is lawfully made available to the general public from federal,  
24 state, or local government records;

1       7. "Retained" means saving, storing, or both saving and storing  
2 voice recorded data longer than the minimum time necessary to  
3 complete a requested command by the user;

4       8. "Smart speaker device" means a speaker and voice command  
5 device offered for sale in this state with an integrated virtual  
6 assistant connected to a cloud-computing storage service that uses  
7 hands-free verbal activation. A smart speaker device does not  
8 include a cellular telephone, tablet, laptop computer with mobile  
9 data access, pager, or motor vehicle, or any speaker or device  
10 associated with, or connected to, a vehicle;

11       9. "Third party" means a person who is not any of the  
12 following:

13           a. the business that collects personal information from  
14 consumers under this act,

15           b. a person to whom the business discloses a consumer's  
16 personal information for a business purpose pursuant  
17 to a written contract, provided that the contract:

18               (1) prohibits the person receiving the personal  
19 information from:

20                   (a) selling the personal information,

21                   (b) retaining, using, or disclosing the personal  
22 information for any purpose other than for  
23 the specific purpose of performing the  
24 services specified in the contract,

1 including retaining, using, or disclosing  
2 the personal information for a commercial  
3 purpose other than providing the services  
4 specified in the contract, or

5 (c) retaining, using, or disclosing the  
6 information outside of the direct business  
7 relationship between the person and the  
8 business, and

9 (2) includes a certification made by the person  
10 receiving the personal information that the  
11 person understands the restrictions in division  
12 (1) of this subparagraph and will comply with the  
13 restrictions.

14 A person covered by this paragraph who violates any of the  
15 restrictions set forth in this act shall be liable for the  
16 violations. A business that discloses personal information to a  
17 person covered by this paragraph in compliance with this paragraph  
18 shall not be liable under this act if the person receiving the  
19 personal information uses it in violation of the restrictions set  
20 forth in this act; provided that, at the time of disclosing the  
21 personal information, the business does not have actual knowledge,  
22 or reason to believe, that the person intends to commit such a  
23 violation;



1        10. "User" means a person who originally purchases, leases, or  
2 takes ownership of a connected television or smart speaker device,  
3 or another person designated by the user to perform the initial  
4 setup or installation of the connected television or smart speaker  
5 device. A person who is incidentally recorded when a voice  
6 recognition feature is activated by a user shall not be deemed to be  
7 a user;

8        11. "Voice recognition feature" means the function of a  
9 connected television or smart speaker device with a voice  
10 recognition feature that allows the collection, recording, storage,  
11 analysis, transmission, interpretation, or other use of spoken words  
12 or other sounds; except that this term shall not include spoken  
13 words or other sounds that are not recorded, retained, or  
14 transmitted beyond the connected television or smart speaker device;  
15 and

16        12. "Voice recorded data" means audio recordings or  
17 transcriptions of those recordings collected through the operation  
18 of a voice recognition feature by the manufacturer of a connected  
19 television or smart speaker device.

20        SECTION 4.        NEW LAW        A new section of law to be codified  
21 in the Oklahoma Statutes as Section 103 of Title 75A, unless there  
22 is created a duplication in numbering, reads as follows:

23        A. A person or entity shall not provide the operation of a  
24 voice recognition feature within this state without prominently

1 informing, during the initial setup or installation of a connected  
2 television or smart speaker device, either the user or the person  
3 designated by the user to perform the initial setup or installation  
4 of the connected television or smart speaker device of both of the  
5 following:

6 1. That the connected television or smart speaker device  
7 contains a voice recognition feature; and

8 2. What actions or commands will activate the voice recognition  
9 feature to record or transcribe audio.

10 B. A recording or transcription collected or retained through  
11 the operation of a voice recognition feature by the manufacturer of  
12 a connected television or smart speaker device, including, but not  
13 limited to, the operation of an accessible user interface for people  
14 with disabilities, if the recording or transcription qualifies as  
15 personal information or is not deidentified, shall not be:

16 1. Used for any advertising purpose;

17 2. Shared with, or sold to, a third party, unless the user has  
18 provided affirmative consent; or

19 3. Retained electronically, unless the user opts in to having  
20 that recording retained by the manufacturer either during  
21 installation or at a later time in the device settings.

22 C. Notwithstanding paragraph 2 of subsection B of this section,  
23 a manufacturer may share information with a third party without  
24 affirmative consent to the extent sharing that information is

1 necessary to execute a function or provide a service specifically  
2 requested by the user; provided the third party does not use that  
3 information for any purpose other than to facilitate the execution  
4 of that function or provision of that service.

5 D. If a user has provided affirmative consent for the sharing  
6 or sale of a recording or transcription as provided in paragraph 2  
7 of subsection B of this section, the manufacturer shall provide the  
8 user with the option to revoke that consent at any time in a manner  
9 reasonably accessible to the user.

10 E. If a user has declined to provide affirmative consent for  
11 the sharing or sale of a recording or transcription as provided in  
12 paragraph 2 of subsection B of this section, the person or entity  
13 seeking consent shall not request that affirmative consent for a  
14 period of at least twelve (12) months after the user has declined to  
15 provide that affirmative consent.

16 F. If a person or entity providing the operation of a device  
17 with a voice recognition feature within this state retains voice  
18 recordings that qualify as personal information or are not  
19 deidentified, that person or entity shall provide users with both of  
20 the following:

21 1. An interface to review and delete those voice recordings.  
22 The interface shall be easily accessible and the user's rights with  
23 respect to these recordings shall be clearly communicated to the  
24 user; and

1        2. The ability to delete those voice recordings automatically.

2        G. If a person or entity providing the operation of a voice  
3 recognition feature that can be activated by a voice command  
4 determines that the voice recognition feature was incorrectly  
5 activated, the person or entity shall not use the associated audio  
6 recording for any purpose, except as specified in subsection B of  
7 this section.

8        H. A person or entity providing the operation of a voice  
9 recognition feature that can be activated by a voice command may use  
10 an audio recording associated with an incorrect activation of a  
11 voice recognition feature to improve the accuracy of the voice  
12 recognition feature; provided that the user has provided affirmative  
13 consent for the use of the audio recording for that purpose.

14        I. A person or entity shall not compel a manufacturer or other  
15 entity providing the operation of a voice recognition feature to  
16 build specific features for the purpose of allowing an investigative  
17 or law enforcement officer to monitor communications through that  
18 feature.

19        J. A manufacturer shall not be liable for functionality  
20 provided by applications that the user chooses to use in the cloud  
21 or are downloaded and installed by a user, unless the manufacturer  
22 collects, controls, or has access to any personal information  
23 collected or elicited by the applications.

1 K. This act shall not apply to any device regulated by the  
2 United States Food and Drug Administration.

3 SECTION 5. NEW LAW A new section of law to be codified  
4 in the Oklahoma Statutes as Section 104 of Title 75A, unless there  
5 is created a duplication in numbering, reads as follows:

6 A. Actions for relief pursuant to this act may be prosecuted  
7 exclusively in a court of competent jurisdiction in a civil action  
8 brought in the name of the people of the State of Oklahoma by the  
9 Attorney General or by any district attorney. This act shall not be  
10 deemed to create a private right of action or limit any existing  
11 private right of action.

12 B. A court may enjoin a person who knowingly engages, has  
13 engaged, or proposes to engage in a violation of this act. The  
14 court may make any orders or judgments as may be necessary to  
15 prevent a violation of this act.

16 C. A person who knowingly engages, has engaged, or proposes to  
17 engage in a violation of this act shall be liable for a civil  
18 penalty not to exceed Two Thousand Five Hundred Dollars (\$2,500.00)  
19 for each connected television or smart speaker device sold or leased  
20 in violation of this act. If the action is brought by the Attorney  
21 General, the penalty shall be deposited into the Governmental Budget  
22 Account. If the action is brought by a district attorney, the  
23 penalty shall be paid to the treasurer of the county in which the  
24 judgment was entered.

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

SECTION 6. This act shall become effective November 1, 2022.

58-2-8708 MJ 12/10/21