

**LOCAL LAW TO BE ENACTED  
BY THE  
ERIE COUNTY LEGISLATURE  
IN THE COUNTY OF ERIE**

**LOCAL LAW INTRO. No. 5-1 -2019**

**LOCAL LAW No. \_\_\_\_\_ - 2019**

**Section 1. Title**

This law shall be known as the Internet Devices Privacy Act.

**Section 2. Legislative Findings and Intent**

With the advent of the “Internet of Things” and all manner of cloud connected devices, technology has allowed for the automation of mundane daily tasks and can provide relevant information, such as weather, movie times, or recipes, utilizing verbal commands. However, with technological progress connecting everything from speakers and refrigerators to the internet the invasion people’s privacy by large corporations has become a significant concern.

Many of these devices have “always on” microphones that listen for audio cues to determine when to begin recording. The recordings are then typically stored by the device manufacturer or software provider and may be used to fine-tune the operation of the consumer’s device. This practice is helpful to the developers and manufacturers and allows them to improve their offerings with real world application. However, because these devices have become so simple to set up that they are virtually “plug-and-play,” there is little in the way of notification as to the non-consumer directed activities of these devices, such as accidental recordings and storage of personally identifiable information. As a result, many consumers are simply unaware when they are being recorded, how much information is being stored, and how such information is retained.

It is the intent of this honorable body to ensure consumers of tech goods are fully aware of the ramifications of setting up a connected device. To that end, this law seeks to require retailers and manufacturers provide consumer notice, be it written or digital, for any device that features an “always on” microphone capable of recording the consumer’s private conversations with, or without, the consumer’s knowledge.

### **Section 3. Definitions**

- A. Digital device - means an Internet-connected device that contains a microphone, such as a smartphone, tablet, television, computer, car, toy, or home appliance.
- B. Microphone - means an instrument capable of detecting sound waves.
- C. Personal Information – shall mean any information concerning a natural person which, because of name, number, personal mark, or other identifier, can be used to identify such natural person
- D. Private entity - means any partnership, corporation, Liability Company, association, organization or other group, regardless of organizational structure, or any agent thereof. "Private entity" does not include a state or local government agency.

### **Section 4. Use of a digital device's microphone**

- A. No private entity may turn on or enable a digital device's microphone for a resident of Erie County unless the registered account holder or another user that is setting up or configuring the device first agrees to the following information in a consumer agreement or privacy notice notifying the registered account holder:
  - 1) that the microphone in the digital device will be turned on or enabled;
  - 2) what command or action will turn on or enable the microphone;
  - 3) the categories of sounds the microphone will be listening for, recording, or disclosing;
  - 4) third parties to which the sounds may be disclosed; and
  - 5) the terms under which any personally identifiable information may be retained by the private entity.
- B. The manufacturer of a digital device that does not cause to be turned on or otherwise use a digital device's microphone is not subject to this Local Law.

## **Section 5. Required Security Measures**

A private entity that records and transmits any personally identifiable information collected through the digital device's microphone concerning a registered account holder, who is a resident of the County of Erie, shall implement and maintain reasonable security measures to protect such personally identifiable information from unauthorized access, acquisition, destruction, use, modification, and disclosure.

## **Section 6. Penalties & Enforcement**

This law shall be enforced by the Department of Weights and Measures, or the proposed Consumer Protection Committee as proposed by the Executive.

Any violation of the provisions of this local law shall be punishable by a fine not to exceed \$1,000 for the first offense, \$5,000 for the second, and no more than \$10,000 for any subsequent offenses.

## **Section 7. Effective Date**

This local law shall be effective 180 days from its filing with the Secretary of State.

## **Section 8. Severability**

If any clause, sentence, paragraph, subdivision, section or part of this Local Law or the application thereof, to any person, individual, corporation, firm, partnership, entity or circumstance, shall be adjudged by any court of competent jurisdiction to be invalid or unconstitutional such order of judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part of this Local Law or its application to the person, individual, corporation, firm, partnership, entity, or circumstances directly involved in the controversy in which such judgment or order shall be rendered.

**Sponsor:** Legislator Lorigo