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State of Minnesota
HOUSE OF REPRESENTATIVES
NINETIETH SESSION

H. F. No. **2651**

05/08/2017 Authored by Thissen
The bill was read for the first time and referred to the Committee on Commerce and Regulatory Reform

1.1 A bill for an act
1.2 relating to privacy; establishing conditions under which a private entity at a remote
1.3 location may activate the microphone of a digital device owned by a consumer
1.4 and listen, store, or transmit the information accessed; proposing coding for new
1.5 law in Minnesota Statutes, chapter 237.

1.6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MINNESOTA:

1.7 Section 1. **[237.418] DIGITAL DEVICE MICROPHONE; CONDITIONS FOR**
1.8 **REMOTE ACCESS.**

1.9 Subdivision 1. **Definitions.** (a) For the purposes of this section, the terms in this
1.10 subdivision have the meanings given them.

1.11 (b) "Digital device" means a smartphone, tablet, television, computer, car, toy, home
1.12 appliance, or any other device that contains a microphone that can:

1.13 (1) be activated remotely by a private entity without the knowledge of the user; and

1.14 (2) transmit sound from the location of the digital device to a remote location where it
1.15 can be recorded and stored.

1.16 (c) "Private entity" means any individual, partnership, corporation, limited liability
1.17 company, association, or other group, however organized. Private entity does not include
1.18 a state or local government agency.

1.19 (d) "User" means a person who purchases, leases, or otherwise regularly uses a digital
1.20 device.

1.21 Subd. 2. **Digital device microphone; requirements for access.** A private entity is
1.22 prohibited from activating or enabling, causing the activation or enabling of, or otherwise

2.1 using a digital device's microphone to listen to, transmit, store, or disclose information
2.2 unless it first:

2.3 (1) informs the user in writing that the microphone in the user's digital device will be
2.4 activated, enabled, or used by the private entity;

2.5 (2) informs the user in writing of the frequency and length of time the microphone will
2.6 be activated, enabled, or used by the private entity;

2.7 (3) informs the user in writing of the specific categories of information the microphone
2.8 will be listening for, transmitting, and storing;

2.9 (4) informs the user in writing of the specific purpose for which the information will be
2.10 collected, used, and stored, and to whom the information may be disclosed; and

2.11 (5) receives the informed, written consent, including through electronic means, of the
2.12 user or the user's authorized agent, representative, or guardian, that:

2.13 (i) is in a form distinct and separate from any form setting forth other legal or financial
2.14 obligations of the user;

2.15 (ii) is provided in advance of the time the microphone is activated, enabled, or used; and

2.16 (iii) runs for a specified period of time or until consent is withdrawn by the user,
2.17 whichever is sooner.

2.18 Subd. 3. **Prohibitions.** The provisions of this section may not be waived by a user or
2.19 private entity. Any agreement that does not comply with the applicable provisions of this
2.20 section is void and unenforceable.

2.21 **EFFECTIVE DATE.** This section is effective the day following final enactment.