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**SB-296 In-vehicle cameras.** (2023-2024)

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**Senate Bill No. 296**

**CHAPTER 864**

An act to add Chapter 36 (commencing with Section 22948.50) to Division 8 of the Business and Professions Code, relating to business.

[ Approved by Governor October 13, 2023. Filed with Secretary of State October 13, 2023. ]

**LEGISLATIVE COUNSEL'S DIGEST**

SB 296, Dodd. In-vehicle cameras.

Existing law prohibits a person or entity from providing the operation of a voice recognition feature within this state without prominently informing, during the initial setup or installation of a connected television, either the user or the person designated by the user to perform the initial setup or installation of the connected television. Existing law further prohibits any actual recordings of spoken word collected through the operation of a voice recognition feature by the manufacturer of a connected television, or a third party contracting with a manufacturer of a connected television, from being sold or used for any advertising purpose. Existing law prohibits a person or entity from compelling a manufacturer or other entity providing the operation of a voice recognition feature to build specific features for the purpose of allowing an investigative or law enforcement officer to monitor communications through that feature. Existing law prohibits a waiver of these prohibitions and authorizes their enforcement by injunction or civil penalty in a court of competent jurisdiction by the Attorney General or a district attorney.

This bill would require a manufacturer of a new motor vehicle that is equipped with one or more in-vehicle cameras to disclose that fact, as specified. The bill would prohibit a dealer, as defined, from providing for the sale or lease of a new motor vehicle with one or more in-vehicle cameras in this state without prominently informing the user or the person designated by the user to purchase the vehicle, as specified, and would grant the buyer or lessee of a vehicle the right to review the owner's manual or any other document, if any is provided by the manufacturer, prior to purchase to determine if an in-vehicle camera exists.

This bill would further prohibit any images or video recordings collected through the operation of an in-vehicle camera from being used for any advertising purpose or being sold to any third party. The bill would also prohibit these images or video recordings from being shared with third parties, except as provided. The bill would also prohibit any recording obtained through operation of an in-vehicle camera from being retained at any location other than the vehicle itself, or being downloaded, retrieved, or otherwise accessed by a person or entity other than the user, as defined, without affirmative prior consent, as defined, or unless the images and videos are accessed to diagnose, service, repair, or improve specified equipment and systems, except as provided. The bill would require a person or entity that provides the operation of an in-vehicle camera in this state to provide effective mechanisms for a consumer to revoke consent. The bill would provide an exception to the above prohibitions to comply with a lawful subpoena, court order, search warrant, or preservation request, as specified. The bill would prohibit a person or entity from compelling a manufacturer or other entity providing the operation of an in-vehicle camera to build specific features for the purpose of allowing an investigative or law enforcement officer to monitor images through that feature.

This bill would prohibit a waiver of the above protections, and would authorize their enforcement by injunction or civil penalty in a court of competent jurisdiction by the Attorney General or a district attorney. The bill would specify that those provisions do not apply to cameras installed in vehicles that are primarily for commercial use, as specified, and do not reduce the rights afforded to a consumer or the obligations imposed on a business under any applicable state or federal law, and that in the case of a conflict between these provisions and any other law, the law providing for the greater protection for the right of privacy for consumers controls.

Vote: majority Appropriation: no Fiscal Committee: yes Local Program: no

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## THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

**SECTION 1.** Chapter 36 (commencing with Section 22948.50) is added to Division 8 of the Business and Professions Code, to read:

### **CHAPTER 36. In-Vehicle Cameras**

**22948.50.** (a) A manufacturer of a new motor vehicle model that is equipped standard with one or more in-vehicle cameras that is sold or leased in this state shall disclose that fact in the owner's manual for the vehicle. If a vehicle is equipped with one or more in-vehicle cameras and the camera does not come standard with the vehicle model, the manufacturer shall disclose that the vehicle is equipped with one or more in-vehicle cameras in a document sent to the dealer of the vehicle, which may include the vehicle specification sheet.

(b) (1) A dealer shall not provide for the sale or lease of a new motor vehicle equipped with one or more in-vehicle cameras in this state without prominently informing, during the purchase of the vehicle, and in accordance with the procedures of paragraphs (2) and (3), either the user or the person designated by the user to purchase the vehicle.

(2) Prior to the execution of the conditional sales contract for a vehicle, the dealer shall provide to the user, or the person designated by the user to purchase the vehicle, a separate disclosure, either written or electronic, acknowledging the existence and operation of an in-vehicle camera in the purchased vehicle, and shall obtain the written or electronic signature of the user or purchaser on that disclosure. The disclosure shall meet all of the following criteria:

(A) Be contained on a single document or single internet website that is separate from the conditional sales contract, purchase order, and any other document.

(B) Contain the following language, written in at least 20-point bold type:

"This vehicle may be equipped with an in-vehicle camera capable of recording the driver and other individuals inside the vehicle. For more information about the in-vehicle camera please consult your automotive dealer, the vehicle manufacturer, or the vehicle owner's manual. The manufacturer is required to notify the dealer about an in-vehicle camera in the owner's manual, specification sheet, or other document. A buyer or lessee of a vehicle has a right to review the owner's manual or any other provided document prior to purchase to determine if an in-vehicle camera exists. For more information about the in-vehicle camera, please consult your automotive dealer, the vehicle manufacturer, or the vehicle owner's manual. If a manufacturer or other person or entity obtains or shares any video or photographs without your consent and in violation of law, they may be subject to legal action, including, but not limited to, via a county district attorney, the state attorney general, or otherwise as described in Sections 22948.51 and 22948.55 of the Business and Professions Code.

By law, signing this acknowledgment form does not waive any rights of the user or constitute consent to a manufacturer to share, sell, or retain any images or videos captured by the in-vehicle camera."

(C) Include a signature or acknowledgment box that the buyer or lessee, or their representative, has reviewed the disclosure language identified in subparagraph (B) and understands their right to review, before purchasing or leasing the vehicle, the vehicle owner's manual and any other information provided by the manufacturer pertaining to in-vehicle cameras.

(3) A buyer or lessee of a vehicle has a right to review the owner's manual or any other document, if any is provided by the manufacturer, prior to purchase to determine if an in-vehicle camera exists.

(c) A dealer shall not be held liable for a violation of subdivision (b) if the manufacturer of that vehicle is in violation of subdivision (a) with respect to that vehicle.

**22948.51.** (a) Any image or video recording collected or retained through the operation of an in-vehicle camera shall not be:

(1) Used for any advertising.

(2) Sold to a third party.

(3) Shared with a third party unless any of the following apply:

(A) The user has provided affirmative prior consent, and all of the following requirements are met:

(i) Recipients of images or video recordings shared pursuant to this subparagraph do not use the images or video recordings for any purpose other than a purpose affirmatively consented to by the consumer, do not share or transmit the images or video recordings, and do not retain the images or video recordings longer than reasonably necessary to fulfill the purpose for which they were shared.

(ii) The user receives clear, meaningful notice prior to the sharing of the images or video recordings, including the party or parties with whom the images or recordings will be shared, and the purpose for which the images or recordings will be shared.

(B) (i) The images or video recordings are shared with a third party only to the extent necessary to diagnose, service, or repair the in-vehicle camera or vehicle equipment that relies on or utilizes the in-vehicle camera, or improve portions of a vehicle's safety system that rely on or utilize the in-vehicle camera.

(ii) Recipients of images or video recordings shared pursuant to this subparagraph do not use the images or video recordings for any purpose other than a purpose specified in clause (i), do not share or transmit the images or video recordings, and do not retain the images or video recordings longer than reasonably necessary to fulfill the purpose for which they were shared.

(C) The images or video recordings are shared with a third party in order to comply with a valid verifiable consumer request pursuant to Title 1.81.5 (commencing with Section 1798.100) of Part 4 of Division 3 of the Civil Code.

(D) The images or video recordings are shared with a third party pursuant to a records request, including, but not limited to, a request pursuant to subdivision (b) of Section 832.7 of the Penal Code or Section 7923.625 of the Government Code or Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure.

(4) Retained at any location, other than the vehicle itself, unless either of the following apply:

(A) The user has provided affirmative prior consent.

(B) The images or video recordings are retained only to the extent necessary to diagnose, service, or repair the in-vehicle camera or vehicle equipment that relies on or utilizes the in-vehicle camera, or improve portions of a vehicle's safety system that rely on or utilize the in-vehicle camera.

(5) Downloaded, retrieved, or otherwise accessed by a person or entity other than the user, unless either of the following apply:

(A) The user has provided affirmative prior consent.

(B) (i) Subject to clause (ii), the images or video recordings are retained only to the extent necessary to diagnose, service, or repair the in-vehicle camera or vehicle equipment that relies on or utilizes the in-vehicle camera, or improve portions of a vehicle's safety system that rely on or utilize the in-vehicle camera.

(ii) The person or entity that downloads, retrieves, or otherwise accesses the images or recordings does not use the images or video recordings for any purpose other than the purpose specified in clause (i), does not share or transmit the images or video recordings, and does not retain the images or video recordings longer than reasonably necessary to fulfill the purpose for which they were shared.

(b) (1) A person or entity that provides the operation of an in-vehicle camera in this state shall provide effective mechanisms, without any cost, penalty, or unnecessary steps, for a consumer to revoke their consent pursuant to subparagraph (A) of paragraph (3) of subdivision (a), subparagraph (A) of paragraph (4) of subdivision (a), and subparagraph (A) of paragraph (5) of subdivision (a) after it is given. At least one of these mechanisms shall utilize the primary medium through which the person or entity communicates with users.

(2) A person or entity subject to paragraph (1) shall honor the user's consent revocation, and shall delete from all locations other than the vehicle itself any image or recording associated with that user that has been collected, retained, downloaded, or retrieved by that person or entity under subparagraph (A) of paragraph (3) of subdivision (a), subparagraph (A) of paragraph (4) of subdivision (a), and subparagraph (A) of paragraph (5) of subdivision (a), as soon as practicable, but not later than 30 days after the user revokes consent.

(c) A person or entity shall not discriminate against a user because the user has exercised any of their rights under this chapter. Discriminatory acts shall include, but not be limited to, the following:

- (1) Denying goods, services, or benefits to the user.
- (2) Charging different prices or rates for goods or services, including through the use of discounts or other incentives or imposing penalties.
- (3) Providing a different level or quality of goods, services, or benefits to the user.
- (4) Suggesting that the user will receive a different price or rate for goods, services, or benefits, or a different level or quality of goods, services, or benefits.
- (5) Considering the user's exercise of rights under this chapter as a basis for suspicion of criminal wrongdoing or unlawful conduct.

(d) Images or video recordings retained through the operation of an in-vehicle camera may be retrieved or shared without the user's permission if any of the following apply:

- (1) In a court, arbitration, or other judicial or administrative authority, the video recordings are subject to the standards for admission into evidence required by that court, arbitrator, or other administrative authority.
- (2) (A) The images or video recordings are retrieved pursuant to an investigation or inspection authorized under Section 1131(a) or 30166 of Title 49 of the United States Code, and the personal information of an owner or a lessee of the vehicle, including the vehicle identification number, is not disclosed in connection with the video recordings retrieved pursuant to this subparagraph.  
  
(B) Notwithstanding subparagraph (A), a vehicle identification number may be disclosed to the manufacturer or other entity responsible for providing the images or video recordings pursuant to subparagraph (A).
- (3) The images or video recordings are retrieved for the purpose of immediately determining the need for, or facilitating, emergency medical response to a motor vehicle crash.

(e) (1) Notwithstanding subdivisions (a) to (d), inclusive, any image or video recording collected or retained through the operation of an in-vehicle camera may be shared with a third party, retained at a location other than the vehicle, or downloaded, retrieved, or otherwise accessed by a person or entity other than the user to comply with a preservation request pursuant to Chapter 119 or 121 of Title 18 of the United States Code, or a lawful subpoena, court order, or search warrant.

(2) Paragraph (1) shall not be construed to relieve a person or entity from compliance with the California Electronic Communications Privacy Act (Chapter 3.6 (commencing with Section 1546) of Title 12 of Part 2 of the Penal Code), including, but not limited to, Section 1546.5 of the Penal Code.

**22948.52.** A person or entity shall not compel a manufacturer or other entity providing the operation of an in-vehicle camera to build specific features for the purpose of allowing an investigative or law enforcement officer to monitor communications through that feature.

**22948.53.** For purposes of this chapter, the following definitions shall apply:

(a) (1) "Affirmative prior consent" means a user's freely given, informed, and unambiguous affirmative authorization for the prospective sharing or retention of their in-vehicle camera recordings or images, in accordance with the requirements of subdivision (a) of Section 22948.51, in one of the following forms:

(A) A page on the vehicle manufacturer's internet website clearly dedicated to privacy where the user can acknowledge their consent to have their in-vehicle camera recordings or images shared or retained pursuant to subdivision (a) of Section 22948.51. This acknowledgment of consent shall not be given in combination with any other acknowledgment, consent, or agreement.

(B) A user's response to a mail form sent by the vehicle manufacturer and returned by the user with their signature acknowledging their consent to have their in-vehicle camera recordings or images shared or retained pursuant to subdivision (a) of Section 22948.51.

(C) A user's signature on a written or electronic form, at the time of the vehicle purchase, acknowledging their consent to have their in-vehicle camera recordings or images shared or retained pursuant to subdivision (a) of Section 22948.51. The

form shall be contained on a single document or single internet page, written in at least 20-point bold font, that is separate from the conditional sales contract, purchase order, or any other document or internet page.

(D) A dedicated prompt displayed on a screen located on the vehicle's center console which allows the user to acknowledge their consent to have their in-vehicle camera recordings or images shared or retained pursuant to subdivision (a) of Section 22948.51. The prompt shall meet all of the following criteria:

(i) Outline the limited sharing or retention for which the user may give consent under subdivision (a) of Section 22948.51, and provide a description of how the user may acknowledge or revoke consent in the future.

(ii) Only allow the user to give consent pursuant to the provisions of subdivision (a) of Section 22948.51, and shall not be used to provide consent for any other purpose or be used in conjunction with any other separate acknowledgment of consent.

(iii) Be displayed to the user only in any of the following instances:

(I) The initial setup of the vehicle during or after purchase.

(II) When diagnoses, service, or repair of the in-vehicle camera, or vehicle equipment that relies on or utilizes the in-vehicle camera, is required.

(III) When the user chooses, through a setting on the vehicle's center console, to view the prompt for the purpose of acknowledging or revoking consent.

(2) "Affirmative prior consent" shall not include any of the following:

(A) Acceptance of a general or broad terms of use, or similar document, that contains descriptions of sharing or retention of in-vehicle camera recordings or images along with other, unrelated information.

(B) Hovering over, muting, pausing, or closing a given piece of content in an electronic format.

(C) Agreement obtained through a user interface designed or manipulated with the substantial effect of subverting or impairing user autonomy, decisionmaking, or choice.

(b) "Dealer" has the same meaning as set forth in Section 285 of the Vehicle Code.

(c) "In-vehicle camera" means any device included as part of a vehicle by the manufacturer that is designed to, or is capable of, recording images or video inside the cabin of the vehicle.

(d) "Personal information" means information that identifies, relates to, describes, is reasonably capable of being associated with, or could reasonably be linked, directly or indirectly, with a particular consumer, household, or consumer device.

(e) "User" means a person who originally purchases, leases, or takes ownership of a vehicle equipped with an in-vehicle camera. A person who is incidentally recorded when a vehicle is operated by a user shall not be deemed to be a user.

(f) "Vehicle manufacturer" or "manufacturer" has the same meaning as set forth in Section 672 of the Vehicle Code.

**22948.54.** Any waiver of the provisions of this chapter is contrary to public policy and void and unenforceable.

**22948.55.** (a) Actions for relief pursuant to this chapter may be prosecuted exclusively in a court of competent jurisdiction in a civil action brought in the name of the people of the State of California by the Attorney General or by any district attorney. This chapter shall not be deemed to create a private right of action, or limit any existing private right of action.

(b) A court may enjoin a person who engages, has engaged, or proposes to engage in a violation of this chapter. The court may make any orders or judgments as may be necessary to prevent a violation of this chapter.

(c) A person who knowingly engages, has engaged, or proposes to engage in a violation of this chapter shall be liable for a civil penalty not to exceed two thousand five hundred dollars (\$2,500) for each vehicle equipped with an in-vehicle camera sold or leased in violation of this chapter. If the action is brought by the Attorney General, the penalty shall be deposited into the General Fund. If the action is brought by a district attorney, the penalty shall be paid to the treasurer of the county in which the judgment was entered.

**22948.56.** The remedies or penalties provided by this chapter are cumulative to each other and to the remedies or penalties available under all other laws of the state.

**22948.57.** (a) This chapter does not reduce the rights afforded to a consumer or the obligations imposed on a business pursuant to any applicable state or federal law for the protection of individual privacy.

(b) In the event of a conflict between this chapter and any other state law, the provisions of the law that afford the greatest protection for the right of privacy for consumers shall control.

(c) The rights afforded to consumers and the obligations imposed on any business pursuant to this chapter do not apply to the extent that they infringe on the noncommercial activities of a person or entity described in subdivision (b) of Section 2 of Article I of the California Constitution.

**22948.58.** (a) This chapter shall not apply to cameras installed in vehicles that are primarily for commercial use, including buses, as defined in Section 233 of the Vehicle Code, motortrucks, as defined in Section 410 of the Vehicle Code, and truck tractors, as defined in Section 655 of the Vehicle Code.

(b) Nothing in this chapter authorizes the sale or advertising for commercial use of any image or video depicting a commercial driver without their consent.

**22948.59.** The provisions of this chapter are severable. If any provision of this chapter or its application is held to be invalid, that invalidity shall not affect other provisions or applications that can be given effect without the invalid provision or application.