

SENATE BILL NO. 364

INTRODUCED BY K. BOGNER

A BILL FOR AN ACT ENTITLED: "AN ACT ESTABLISHING KILL SWITCH LAWS; PROHIBITING AN ENTITY FROM REMOTELY ACTIVATING A KILL SWITCH WITHOUT A WARRANT; PROVIDING AN EXCEPTION EXCEPTIONS; PROVIDING DAMAGES; AND PROVIDING AN EFFECTIVE DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. Section 1. Kill switches in electronic consumer products ON PERSONALLY OWNED PROPERTY -- warrant required -- exceptions -- definitions. (1) An entity may not activate a kill switch on an individual's electronic consumer product PERSONALLY OWNED PROPERTY without a court order or a warrant issued pursuant to Title 46, chapter 5, part 2.

(2) This section does not apply to:

(A) subscriptions, memberships, and other recurring-payment programs, or to leased electronic consumer products ELECTRONIC DEVICES USED TO ENFORCE RETAIL INSTALLMENT SALE AGREEMENTS, LEASE AGREEMENTS, RENTAL AGREEMENTS, AND OTHER SECURED CREDITOR AGREEMENTS, OR TO MOTOR VEHICLES SUBJECT TO COLLECTIONS. In the event an individual neglects to make regular payments, the entity may activate a kill switch to turn off the individual's subscribed services.

(B) A MECHANISM OR FEATURE THAT:

(i) ADDRESSES AN IMMINENT CRITICAL SAFETY ISSUE IMPACTING A MECHANICAL OR SOFTWARE COMPONENT OF A MOTOR VEHICLE;

(ii) ACTIVATES WHEN A DRIVER OF A MOTOR VEHICLE IS INCAPACITATED, SUFFERS A MEDICAL EMERGENCY, OR EXPERIENCES A LOSS OF CONSCIOUSNESS;

(iii) TAKES CORRECTIVE ACTION IN A MOTOR VEHICLE WITH AN ENGAGED PARTIAL DRIVING AUTOMATION FEATURE IF THE DRIVER IS NOT ATTENTIVE OR ENGAGED IN THE DRIVING TASK AND DOES NOT RESPOND TO WARNINGS;

(iv) BRINGS A MOTOR VEHICLE WITH AN ENGAGED AUTOMATED DRIVING SYSTEM TO A MINIMAL RISK CONDITION; OR

(V) AUTOMATICALLY SHUTS OFF THE ENGINE OR MOTOR OF AN IDLING MOTOR VEHICLE THAT HAS BEEN LEFT ON FOR AN EXTENDED PERIOD OF TIME WHILE IN THE PARK POSITION.

(3) As used in [sections 1 ~~and 2~~ THROUGH 3], the following definitions apply:

(a) ~~—"Electronic consumer product" includes electronic devices as defined in 45-6-310 as well as motor vehicles as defined in 61-1-101.~~

(b)(A) "Entity" means a company that manufactures or distributes ~~an electronic consumer product~~ PERSONALLY OWNED PROPERTY or that provides service for ~~an electronic consumer product's~~ ITS functionality.

(c)(B) "Hard reset" means the restoration of ~~an electronic consumer product~~ PERSONALLY OWNED PROPERTY to the state ~~the electronic consumer product~~ IT was in when it left the factory. Other terms commonly used are "factory reset" and "master reset".

(d)(C) "Individual" means a natural person.

(e)(D) "Kill switch" means a mechanism that may be engaged remotely, regardless of the owner's consent, and is used to:

(i) shut down or perform a hard reset on ~~an electronic consumer product~~ PERSONALLY OWNED PROPERTY;

(ii) hasten the battery drainage of ~~an electronic consumer product~~ PERSONALLY OWNED PROPERTY;

or

(iii) shorten the software lifespan of ~~an electronic consumer product~~ PERSONALLY OWNED PROPERTY.

NEW SECTION. Section 2. Enforcement -- damages. (1) A violation of [section 1] is a violation of 30-14-103.

(2) The department of justice may bring an action to restrain any unlawful act pursuant to the provisions of Title 30, chapter 14, part 1.

(3) An individual whose ~~electronic consumer product~~ PERSONALLY OWNED PROPERTY has a kill switch activated in violation of [section 1] may bring an action pursuant to 30-14-133, except that:

(a) the individual needs to show only a violation of [section 1] for that individual's ~~electronic consumer product~~ PERSONALLY OWNED PROPERTY and is not required to show any other ascertainable loss of money or property; and

(b) the individual is entitled to statutory damages of \$10,000 for each violation of [section 1] in addition to any other damages or monetary award pursuant to 30-14-133.

NEW SECTION. SECTION 3. USER CONSENT. A KILL SWITCH MAY BE ACTIVATED ON STOLEN PERSONALLY OWNED PROPERTY WITH CONSENT OF THE PROPERTY OWNER.

NEW SECTION. Section 4. Codification instruction. [Sections 1 and ~~2~~ THROUGH 3] are intended to be codified as a new part in Title 30, chapter 14, and the provisions of Title 30, chapter 14, apply to [sections 1 and ~~2~~ THROUGH 3].

NEW SECTION. Section 5. Effective date. [This act] is effective October 1, 2025.

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