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SB 44: Neural Data Protection Act

SUMMARY

SB 44 would require companies to use neural data only for the purposes it was collected and would that collected data be deleted when the purpose for which it was collected is accomplished.

BACKGROUND

The California Consumer Privacy Act (CCPA) of 2018 authorized a consumer to direct a business that collects sensitive personal information about said consumer to limit its use as specified for the purpose in which it was collected.

In 2024, an amendment to the CCPA was passed which expanded the definition of sensitive personal information to include neural data. California law now defines “neural data” as “information that is generated by measuring the activity of a consumer’s central or peripheral nervous system, and that is not inferred from non-neural information.”

Neural data is collected through the growing use of advanced technology, Brain-Computer Interfaces (BCIs). They allow direct communication between the brain and external devices. Originally created for medical purposes, like helping improve cognitive function and restoring mobility for paralyzed patients, BCI’s have attracted interest from major tech companies and researchers.

Among the leader of companies developing BCIs is Elon Musk’s Nueralink. Part of Elon’s mission with Nueralink is to “unlock human potential for tomorrow.”

NEED FOR THE BILL

Brain data collected by BCIs has the potential to reveal sensitive personal details about a person’s thoughts, emotions, cognitive processes, and even subconscious thoughts. In the wrong hands, the consequences of misused or unprotected neural data could be severe.

With the potential for BCIs to be used for commercial purposes, such as gaming, workplace efficiency, and entertainment, serious ethical and privacy concerns arise about how providers like Neuralink could misuse personal neural data.

As this technology rapidly advances there is a need to ensure privacy and user protection. There are currently no specific standards that govern the development of BCI applications.

THE SOLUTION

In order to ensure user protection, SB 44 builds on the CCPA by mandating that a covered provider shall only use the neural data for the purpose in which it was stated to be collected for.

It would also require the covered provider to delete the data when the purpose for which it was collected is completed.

SUPPORT

Consumer Federation of America (Co-sponsor)

Consumer Federation of California (Co-sponsor)

Oakland Privacy (Co-Sponsor)

FOR MORE INFORMATION

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