

Amendment - 2nd Reading-yellow - Requested by: Kenneth Bogner - (S) Committee of the Whole

- 2025

69th Legislature 2025

Drafter: Jason Mohr,

SB0364.002.002

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 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

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1 LEFT ON FOR AN EXTENDED PERIOD OF TIME WHILE IN THE PARK POSITION.

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

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

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

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

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

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

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

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

16 or

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

18
19 NEW SECTION. Section 2. Enforcement -- damages. (1) A violation of [section 1] is a violation of
20 30-14-103.

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

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

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

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

3
4 **NEW SECTION. Section 3. User consent.** A kill switch may be activated on stolen personally owned
5 property with consent of the property owner.

6
7 **NEW SECTION. Section 4. Codification instruction.** [Sections 1 ~~and 2~~ through 3] are intended to
8 be codified as a new part in Title 30, chapter 14, and the provisions of Title 30, chapter 14, apply to [sections 1
9 ~~and 2~~ through 3].

10
11 **NEW SECTION. Section 5. Effective date.** [This act] is effective October 1, 2025.

12 - END -