

# Your Brainwaves Are Now for Sale: Why States Are Racing to Protect Your Mind

July 16, 2025 - Your brain might be the next big privacy battle-and most Americans don't even realize it.

In recent years, devices like smart headphones, sleep trackers, and meditation headbands have started doing something many people don't expect: reading brain activity. These gadgets can track your focus, sleep, emotions, and other signals from your brain and nervous system-and then send that data to companies through apps on your phone.

As this technology spreads, three states-Colorado, California, and Montana-have passed new laws to protect what experts call "neural data." That's information pulled directly from your brain.

## Why This Matters

Neural data is deeply personal. It can reveal your mood, your health, and even how your mind works. It's like a fingerprint of your thoughts. Yet, a recent study by the Neurorights Foundation found that 29 out of 30 companies selling brainwave-reading devices online collect and store this data, with nearly all of them sharing it with other companies.

Senators in Washington have now asked the Federal Trade Commission (FTC) to investigate whether companies are using people's brain data unfairly. The American Medical Association also wants tighter rules. "If you collect brain data today, who knows what companies will be able to figure out from it five years from now?" said Colorado state senator Cathy Kipp.

Right now, most people aren't protected. Devices sold in stores or online aren't covered by health privacy laws, since they're not technically medical equipment. That means companies can gather and share your brain data just like they track your shopping habits online.

## A Growing Industry

This kind of brain-reading technology, called neurotechnology, is growing fast. Industry reports show it's now a \$15 billion market and could grow to over \$50 billion in just the next ten years. Companies like Elon Musk's Neuralink and startups funded by Bill Gates and Jeff Bezos are working on brain implants. But many consumer companies are already selling wearable devices like headbands and earbuds that gather brainwave information. As this technology expands, some experts worry that laws aren't keeping up.

## What the New Laws Do

The new state laws in Colorado, California, and Montana aim to give people more control over their brain data:

- You must give permission before companies can collect your brain data.
- You have the right to delete your brain data if you no longer want companies to keep it.
- Companies must get extra permission before sharing your brain data with other businesses.

Montana lawmaker Daniel Zolnikov, who sponsored one of these bills, put it simply: "You should own your brain data, completely."

These state laws passed easily, with bipartisan support.

## A Bigger Problem Ahead?

While the state laws are a good start, many experts think national laws are needed.

Without clear rules, companies could someday use your brain data for advertising, job screening, or even predicting your emotions and thoughts. Artificial intelligence (AI) technology could make it easier for companies to analyze brainwaves

and learn more about people's private lives.

Countries like Chile are already taking action. In 2021, Chile became the first country in the world to change its constitution to protect what they call "neurorights"-the rights people have over their own brain data. The United Nations' education and science agency (UNESCO) also warns that brain data could threaten human freedom if not handled carefully.

What Could Happen If We Lose Control?

Imagine a future where employers check your brain activity before hiring you. Or advertisers track your emotions directly from your mind. Or insurance companies raise your rates based on stress patterns picked up by your earbuds.

Once brain data is collected, it can be saved, sold, and used in ways no one expected. That's why privacy advocates say strong laws are needed now.

This could become the biggest privacy fight of our generation according to Sen. Sean Pauzauskie, a neurologist and privacy advocate in Colorado. He said that it's not just about protecting your data. It's about protecting your thoughts. The Bottom Line

Your brainwaves might seem like science fiction-but they're already being tracked, sold, and stored. Three states have acted, but the rest of the country is vulnerable.

As technology races ahead, the question is simple: Who owns your mind?

And unless strong privacy laws say otherwise, it might not be you.

by Jim Malmberg

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