



Sen. Thomas Cullerton

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1 AMENDMENT TO HOUSE BILL 3449

2 AMENDMENT NO. _____. Amend House Bill 3449 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Geolocation Privacy Protection Act.

6 Section 5. Definitions. As used in this Act:

7 "Geolocation information" means information that: (i) is
8 not the contents of a communication; (ii) is generated by or
9 derived from, in whole or in part, the operation of a mobile
10 device, including, but not limited to, a smart phone, tablet,
11 or laptop computer; and (iii) is sufficient to determine or
12 infer the precise location of that device. "Geolocation
13 information" does not include Internet protocol addresses.

14 "Location-based application" means a software application
15 that collects, uses, or stores geolocation information.

16 "Private entity" means any individual, partnership,

1 corporation, limited liability company, association, or other
2 group, however organized. "Private entity" does not include any
3 governmental agency.

4 Section 10. Collection, use, storage, and disclosure of
5 geolocation information from location-based applications.

6 (a) A private entity may not collect, use, store, or
7 disclose geolocation information from a location-based
8 application on a person's device unless the private entity
9 first receives the person's affirmative express consent after
10 providing clear, prominent, and accurate notice that:

11 (1) informs the person that his or her geolocation
12 information will be collected, used, or disclosed;

13 (2) informs the person in writing of the specific
14 purposes for which his or her geolocation information will
15 be collected, used, or disclosed; and

16 (3) provides the person a hyperlink or comparably
17 easily accessible means to access the information
18 specified in this subsection.

19 (b) A private entity may collect, use, or disclose
20 geolocation information from a location-based application on a
21 person's device without receiving affirmative express consent
22 if the collection or disclosure is:

23 (1) to allow a parent or legal guardian to locate an
24 unemancipated minor child;

25 (2) to allow a court-appointed guardian to locate a

1 legally incapacitated person; or

2 (3) for the provision of fire, medical, public safety,
3 or other emergency services.

4 (c) A private entity need not obtain a person's affirmative
5 express consent after the person's initial consent as described
6 in subsection (a) has been obtained unless the terms previously
7 agreed to under items (1), (2), and (3) of subsection (a) are
8 materially changed.

9 (d) This Section applies to location-based applications
10 created or modified after the effective date of this Act.

11 Section 15. Violation. A violation of this Act constitutes
12 a violation of the Consumer Fraud and Deceptive Business
13 Practices Act. Only a State's Attorney or the Attorney General
14 may enforce a violation of this Act as an unlawful practice
15 under the Consumer Fraud and Deceptive Business Practices Act.

16 Section 20. Waivers; contracts.

17 (a) Any waiver of the provisions of this Act is void and
18 unenforceable.

19 (b) Any agreement created or modified after the effective
20 date of this Act that does not comply with this Act is void and
21 unenforceable.

22 Section 25. Applicability. This Act does not apply to: (i)
23 a health care provider or other covered entity subject to the

1 Federal Health Insurance Portability and Accountability Act of
2 1996 and the rules promulgated thereunder; (ii) a financial
3 institution or an affiliate of a financial institution that is
4 subject to Title V of the Federal Gramm-Leach-Bliley Act of
5 1999 and the rules promulgated thereunder; or (iii) Internet,
6 wireless, or telecommunications service providers; (iv) a
7 person or entity providing cable service or video service
8 pursuant to authorization under the Cable and Video Competition
9 Law of 2007 (Article XXI of the Public Utilities Act); Section
10 11-42-11 of the Illinois Municipal Code; or Section 5-1095 of
11 the Counties Code; (v) a person licensed as a private detective
12 pursuant to the Private Detective, Private Alarm, Private
13 Security, Fingerprint Vendor, and Locksmith Act of 2004; or
14 (vi) an individual or firm licensed under the Illinois
15 Professional Land Surveyor Act of 1989 or the Professional
16 Engineering Practice Act of 1989.

17 Section 90. The Consumer Fraud and Deceptive Business
18 Practices Act is amended by changing Section 2Z as follows:

19 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

20 Sec. 2Z. Violations of other Acts. Any person who knowingly
21 violates the Automotive Repair Act, the Automotive Collision
22 Repair Act, the Home Repair and Remodeling Act, the Dance
23 Studio Act, the Geolocation Privacy Protection Act, the
24 Physical Fitness Services Act, the Hearing Instrument Consumer

1 Protection Act, the Illinois Union Label Act, the Job Referral
2 and Job Listing Services Consumer Protection Act, the Travel
3 Promotion Consumer Protection Act, the Credit Services
4 Organizations Act, the Automatic Telephone Dialers Act, the
5 Pay-Per-Call Services Consumer Protection Act, the Telephone
6 Solicitations Act, the Illinois Funeral or Burial Funds Act,
7 the Cemetery Oversight Act, the Cemetery Care Act, the Safe and
8 Hygienic Bed Act, the Pre-Need Cemetery Sales Act, the High
9 Risk Home Loan Act, the Payday Loan Reform Act, the Mortgage
10 Rescue Fraud Act, subsection (a) or (b) of Section 3-10 of the
11 Cigarette Tax Act, subsection (a) or (b) of Section 3-10 of the
12 Cigarette Use Tax Act, the Electronic Mail Act, the Internet
13 Caller Identification Act, paragraph (6) of subsection (k) of
14 Section 6-305 of the Illinois Vehicle Code, Section 11-1431,
15 18d-115, 18d-120, 18d-125, 18d-135, 18d-150, or 18d-153 of the
16 Illinois Vehicle Code, Article 3 of the Residential Real
17 Property Disclosure Act, the Automatic Contract Renewal Act,
18 the Reverse Mortgage Act, Section 25 of the Youth Mental Health
19 Protection Act, or the Personal Information Protection Act
20 commits an unlawful practice within the meaning of this Act.

21 (Source: P.A. 99-331, eff. 1-1-16; 99-411, eff. 1-1-16; 99-642,
22 eff. 7-28-16.)".