



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 is downloaded or installed onto a mobile device and
16 collects, uses, or stores geolocation information.

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

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

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

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

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

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

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

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

1 (2) to allow a court-appointed guardian to locate a
2 legally incapacitated person;

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

5 (4) for the limited purpose of providing storage,
6 security, or authentication services.

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

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

14 Section 15. Violation.

15 (a) A violation of this Act constitutes a violation of the
16 Consumer Fraud and Deceptive Business Practices Act. Only a
17 State's Attorney or the Attorney General may enforce a
18 violation of this Act as an unlawful practice under the
19 Consumer Fraud and Deceptive Business Practices Act.

20 (b) A private entity, other than an individual, that is in
21 violation of this Act shall have 15 days after being notified
22 of a violation to rectify that violation before the Attorney
23 General or appropriate State's Attorney's Office may seek an
24 enforcement action against that private entity.

1 Section 20. Waivers; contracts.

2 (a) Any waiver of the provisions of this Act is void and
3 unenforceable.

4 (b) Any agreement created or modified after the effective
5 date of this Act that does not comply with this Act is void and
6 unenforceable. Only a State's Attorney and the Attorney General
7 may enforce provisions of contracts as void under this Act.

8 Section 25. Applicability. This Act does not apply to: (i)
9 a health care provider or other covered entity subject to the
10 Federal Health Insurance Portability and Accountability Act of
11 1996 and the rules promulgated thereunder; (ii) a financial
12 institution or an affiliate of a financial institution that is
13 subject to Title V of the Federal Gramm-Leach-Bliley Act of
14 1999 and the rules promulgated thereunder; (iii) Internet,
15 wireless, or telecommunications service providers; (iv) a
16 person licensed as a private detective pursuant to the Private
17 Detective, Private Alarm, Private Security, Fingerprint
18 Vendor, and Locksmith Act of 2004; (v) an individual or firm
19 licensed under the Illinois Professional Land Surveyor Act of
20 1989 or the Professional Engineering Practice Act of 1989; (vi)
21 a public utility, as defined in Section 3-105 of the Public
22 Utilities Act, an alternative retail electric supplier, as
23 defined in Section 16-102 of the Public Utilities Act, an
24 alternative gas supplier, as defined in Section 19-105 of the
25 Public Utilities Act, or the employees or agents of those

1 entities; or (vii) any candidate, volunteer, employee, agent,
2 or vendor of a candidate political committee, political party
3 committee, political action committee, ballot initiative
4 committee, or independent expenditure committee, as defined in
5 Section 9-1.8 of the Election Code.

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

8 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

9 Sec. 2Z. Violations of other Acts. Any person who knowingly
10 violates the Automotive Repair Act, the Automotive Collision
11 Repair Act, the Home Repair and Remodeling Act, the Dance
12 Studio Act, the Geolocation Privacy Protection Act, the
13 Physical Fitness Services Act, the Hearing Instrument Consumer
14 Protection Act, the Illinois Union Label Act, the Job Referral
15 and Job Listing Services Consumer Protection Act, the Travel
16 Promotion Consumer Protection Act, the Credit Services
17 Organizations Act, the Automatic Telephone Dialers Act, the
18 Pay-Per-Call Services Consumer Protection Act, the Telephone
19 Solicitations Act, the Illinois Funeral or Burial Funds Act,
20 the Cemetery Oversight Act, the Cemetery Care Act, the Safe and
21 Hygienic Bed Act, the Pre-Need Cemetery Sales Act, the High
22 Risk Home Loan Act, the Payday Loan Reform Act, the Mortgage
23 Rescue Fraud Act, subsection (a) or (b) of Section 3-10 of the
24 Cigarette Tax Act, subsection (a) or (b) of Section 3-10 of the

1 Cigarette Use Tax Act, the Electronic Mail Act, the Internet
2 Caller Identification Act, paragraph (6) of subsection (k) of
3 Section 6-305 of the Illinois Vehicle Code, Section 11-1431,
4 18d-115, 18d-120, 18d-125, 18d-135, 18d-150, or 18d-153 of the
5 Illinois Vehicle Code, Article 3 of the Residential Real
6 Property Disclosure Act, the Automatic Contract Renewal Act,
7 the Reverse Mortgage Act, Section 25 of the Youth Mental Health
8 Protection Act, or the Personal Information Protection Act
9 commits an unlawful practice within the meaning of this Act.

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