



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, including  
20          when an agreement is void and unenforceable pursuant to Section  
21          20 of this Act.

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

1 enforcement action against that private entity.

2 Section 20. Waivers; contracts.

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

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

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

1 retail electric supplier, as defined in Section 16-102 of the  
2 Public Utilities Act, an alternative gas supplier, as defined  
3 in Section 19-105 of the Public Utilities Act, or the employees  
4 or agents of those entities; or (viii) any candidate,  
5 volunteer, employee, agent, or vendor of a candidate political  
6 committee, political party committee, political action  
7 committee, ballot initiative committee, or independent  
8 expenditure committee, as defined in Section 9-1.8 of the  
9 Election Code.

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

12 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

13 Sec. 2Z. Violations of other Acts. Any person who knowingly  
14 violates the Automotive Repair Act, the Automotive Collision  
15 Repair Act, the Home Repair and Remodeling Act, the Dance  
16 Studio Act, the Geolocation Privacy Protection Act, the  
17 Physical Fitness Services Act, the Hearing Instrument Consumer  
18 Protection Act, the Illinois Union Label Act, the Job Referral  
19 and Job Listing Services Consumer Protection Act, the Travel  
20 Promotion Consumer Protection Act, the Credit Services  
21 Organizations Act, the Automatic Telephone Dialers Act, the  
22 Pay-Per-Call Services Consumer Protection Act, the Telephone  
23 Solicitations Act, the Illinois Funeral or Burial Funds Act,  
24 the Cemetery Oversight Act, the Cemetery Care Act, the Safe and

1 Hygienic Bed Act, the Pre-Need Cemetery Sales Act, the High  
2 Risk Home Loan Act, the Payday Loan Reform Act, the Mortgage  
3 Rescue Fraud Act, subsection (a) or (b) of Section 3-10 of the  
4 Cigarette Tax Act, subsection (a) or (b) of Section 3-10 of the  
5 Cigarette Use Tax Act, the Electronic Mail Act, the Internet  
6 Caller Identification Act, paragraph (6) of subsection (k) of  
7 Section 6-305 of the Illinois Vehicle Code, Section 11-1431,  
8 18d-115, 18d-120, 18d-125, 18d-135, 18d-150, or 18d-153 of the  
9 Illinois Vehicle Code, Article 3 of the Residential Real  
10 Property Disclosure Act, the Automatic Contract Renewal Act,  
11 the Reverse Mortgage Act, Section 25 of the Youth Mental Health  
12 Protection Act, or the Personal Information Protection Act  
13 commits an unlawful practice within the meaning of this Act.  
14 (Source: P.A. 99-331, eff. 1-1-16; 99-411, eff. 1-1-16; 99-642,  
15 eff. 7-28-16.)".