



101ST GENERAL ASSEMBLY

State of Illinois

2019 and 2020

HB5497

by Rep. Ann M. Williams

SYNOPSIS AS INTRODUCED:

New Act

Creates the Geolocation Privacy Protection Act. Provides that a private entity that owns, operates, or controls a location-based application on a user's device may not disclose geolocation information from a location-based application to a third party unless the private entity first receives the user's affirmative express consent after providing a specified notice to the user. Sets forth the purposes for which disclosure may be made. Provides that a violation of the Act constitutes an unlawful practice for which the Attorney General may take appropriate action under the Consumer Fraud and Deceptive Business Practices Act. Provides that the Act does not modify, limit, or supersede the operation of any other Illinois law or prevent a party from otherwise seeking relief under the Code of Civil Procedure. Provides that waiver of the provisions of the Act is void and unenforceable and an agreement that does not comply with the Act is void and unenforceable. Provides that the Act does not apply to certain entities.

LRB101 17462 JLS 66872 b

1 AN ACT concerning business.

2 **Be it enacted by the People of the State of Illinois,**
3 **represented in the General Assembly:**

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 "Consent" means a clear affirmative act signifying a
8 specific, informed, and unambiguous indication of a person's
9 agreement, including through a written agreement or other clear
10 affirmative action, that shall be valid only after all
11 information as required by Section 10 has been disclosed to
12 that person. "Consent" does not include only the continued use
13 of a website or online service.

14 "Consumer transaction" means the disclosure of geolocation
15 information for the purpose of moving or delivering tangible
16 personal property made by a private entity or, with the private
17 entity's authorization, the private entity's affiliate or
18 service provider to process a consumer transaction.

19 "Disclose" means to disclose, release, transfer, share,
20 disseminate, make available, sell, or otherwise communicate
21 orally, in writing, or by electronic or any other means a
22 consumer's geolocation information to any third party.

23 "Geolocation information" means information that: (i) is

1 not the contents of a communication; (ii) is generated by or
2 derived from, in whole or in part, the operation of a mobile
3 device, including, but not limited to, a smart phone, tablet,
4 or laptop computer; and (iii) is sufficient to determine or
5 infer the precise geolocation of that device. "Geolocation
6 information" does not include Internet protocol addresses.

7 "Location-based application" means a software application
8 that is downloaded or installed onto a device and collects,
9 uses, or stores geolocation information.

10 "Private entity" means any individual, partnership,
11 corporation, limited liability company, association, or other
12 group, however organized. "Private entity" does not include any
13 governmental agency.

14 "User" means a resident of this State who purchases or
15 leases a device.

16 Section 10. Disclosure of geolocation information from
17 location-based applications.

18 (a) A private entity that owns, operates, or controls a
19 location-based application on a user's device may not disclose
20 geolocation information from a location-based application to a
21 third party unless the private entity first receives the user's
22 affirmative express consent after providing clear and accurate
23 notice that:

24 (1) informs the user that his or her geolocation
25 information will be disclosed;

1 (2) informs the user of the purpose or purposes for
2 which his or her geolocation information will be disclosed;
3 and

4 (3) identifies the names and categories of private
5 entities to which geolocation information may be
6 disclosed.

7 (b) A private entity may disclose geolocation information
8 from a location-based application on a user's device without
9 receiving affirmative express consent if the disclosure is:

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

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

14 (3) in connection with fire, medical, public safety, or
15 other emergency services;

16 (4) to comply with a subpoena or court order; or

17 (5) made in connection with a consumer transaction
18 entered into by a consumer where a reasonable consumer
19 would expect the geolocation information to be disclosed.

20 (c) This Section does not apply to geolocation information
21 that is stored locally and is not removed from a user's device.

22 (d) A private entity need not obtain a user's affirmative
23 express consent after the user's initial consent as described
24 in subsection (a) has been obtained unless the terms previously
25 agreed to under items (1), (2), and (3) of subsection (a) are
26 materially changed.

1 (e) This Section applies only to location-based
2 applications created or modified after the effective date of
3 this Act.

4 Section 15. Violations and enforcement. A violation of this
5 Act constitutes an unlawful practice for which the Attorney
6 General may take appropriate action under the Consumer Fraud
7 and Deceptive Business Practices Act. All remedies, penalties,
8 and authority granted to the Attorney General by that Act shall
9 be available to the Attorney General for the enforcement of
10 this Act. There shall be no private right of action to enforce
11 violations under this Act.

12 Section 20. Compliance; contracts; waivers.

13 (a) Nothing in this Act shall be construed to modify,
14 limit, or supersede the operation of any other Illinois law or
15 prevent a party from otherwise seeking relief under the Code of
16 Civil Procedure.

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

21 Section 25. Applicability. This Act does not apply to:

22 (1) a health care provider or other covered entity that
23 is subject to the Federal Health Insurance Portability and

1 Accountability Act of 1996 and the rules promulgated
2 thereunder and that is disclosing geolocation information
3 in accordance with that Act;

4 (2) a financial institution or an affiliate of a
5 financial institution that is subject to Title V of the
6 federal Gramm-Leach-Bliley Act and the rules promulgated
7 thereunder and that is disclosing geolocation information
8 in accordance with that Act; or

9 (3) entities regulated under the Transportation
10 Network Providers Act or any of their subsidiaries that
11 own, operate, or control a location-based application, the
12 sole function of which is to provide transportation
13 services based on geolocation information, to the extent
14 that these entities or their subsidiaries disclose the
15 geolocation information for the sole purpose of providing a
16 service requested by the individual or the use is otherwise
17 consistent with that individual's reasonable expectations
18 considering the context in which the individual provided
19 the geolocation information to these entities.