



## 102ND GENERAL ASSEMBLY

### State of Illinois

2021 and 2022

HB3453

Introduced 2/22/2021, 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.

LRB102 11785 JLS 17120 b

FISCAL NOTE ACT  
MAY APPLY

A BILL FOR

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  
10 clear 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  
17 private entity's authorization, the private entity's affiliate  
18 or 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  
13 any 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  
22 user's affirmative express consent after providing clear and  
23 accurate 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  
3           disclosed; 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,  
15           or 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  
25           previously agreed to under items (1), (2), and (3) of  
26           subsection (a) are 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  
5 this Act constitutes an unlawful practice for which the  
6 Attorney General may take appropriate action under the  
7 Consumer Fraud and Deceptive Business Practices Act. All  
8 remedies, penalties, and authority granted to the Attorney  
9 General by that Act shall be available to the Attorney General  
10 for the enforcement of this Act. There shall be no private  
11 right of action to enforce 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  
16 of 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  
23 that is subject to the Federal Health Insurance

1 Portability and Accountability Act of 1996 and the rules  
2 promulgated thereunder and that is disclosing geolocation  
3 information 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  
16 a service requested by the individual or the use is  
17 otherwise consistent with that individual's reasonable  
18 expectations considering the context in which the  
19 individual provided the geolocation information to these  
20 entities.