

# SENATE, No. 2648

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## STATE OF NEW JERSEY 214th LEGISLATURE

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INTRODUCED JANUARY 25, 2011

**Sponsored by:**

**Senator BARBARA BUONO**

**District 18 (Middlesex)**

**Senator JOSEPH F. VITALE**

**District 19 (Middlesex)**

**SYNOPSIS**

Requires wireless cell phone company to inform subscribers that cell phone GPS capability may be deactivated.

**CURRENT VERSION OF TEXT**

As introduced.



**(Sponsorship Updated As Of: 2/23/2011)**

1 AN ACT concerning telecommunication information and  
2 supplementing P.L.1960, c.39 (C.56:8-1 et seq.).  
3

4 **BE IT ENACTED** *by the Senate and General Assembly of the State*  
5 *of New Jersey:*  
6

7 1. For the purposes of this act:

8 "Location-based service" is a service provided by a wireless  
9 communication service provider that uses the geographical  
10 positioning system of a wireless communication device to track the  
11 physical location of that wireless device; for the purposes of this  
12 act, location-based service is not enhanced 9-1-1 data;

13 "Subscriber" means any person to whom wireless telephone  
14 service is provided;

15 "Wireless telephone service" means commercial mobile service,  
16 as defined in 47 U.S.C.s.332(d); and

17 "Wireless telephone service provider" or "provider" means any  
18 person providing wireless telephone service, or any sales person  
19 employed by a provider, or any direct or indirect affiliate or agent  
20 of a provider who sells a wireless communication device to a  
21 subscriber.  
22

23 2. Each wireless service provider operating in this State shall  
24 establish and maintain a separate telephone hotline and e-mail  
25 address in order to respond to inquiries from subscribers regarding  
26 the provider's location-based service technology. The separate  
27 telephone hotline and e-mail address shall provide subscribers with  
28 step-by-step instructions describing the method by which the  
29 location-based service can be deactivated by a subscriber through  
30 the subscriber's wireless communication device.  
31

32 3. a. A wireless telephone service provider operating in this  
33 State who sells a wireless communication device to a subscriber  
34 shall verbally inform the subscriber, at the time of the sale, that the  
35 location-based service capability of the wireless communication  
36 device may be deactivated by the subscriber. The wireless  
37 telephone service provider shall verbally inform the subscriber of  
38 the telephone hotline and e-mail address established pursuant to  
39 section 2 of P.L. c. (C. ) (pending before the Legislature as  
40 this bill) from which the subscriber may receive step-by-step  
41 instructions to deactivate the location-based service of subscriber's  
42 wireless communication device.

43 b. In addition to the verbal information provided under  
44 subsection a. of this section, a wireless telephone service provider  
45 shall submit a written document to every subscriber who purchases  
46 a wireless communication device. The document shall inform the  
47 subscriber that the wireless communication device may be disabled

1 by the subscriber. The document shall meet all of the following  
2 requirements:

3 (1) it shall be a separate document that is not attached to a  
4 contract for wireless telephone service, or to any other document;

5 (2) it shall be signed and dated by the subscriber;

6 (3) it shall list the telephone hotline and e-mail address  
7 established pursuant to section 2 of P.L. , c. (C. ) (pending  
8 before the Legislature as this bill.) that the subscriber may use to  
9 receive step-by-step instructions to deactivate the location-based  
10 service of subscriber's wireless communication device.

11 (4) it shall be unambiguous and legible, and shall conspicuously  
12 disclose that, by signing the document, the subscriber has been  
13 informed both verbally and in writing that the location-based  
14 service capability of that subscriber's wireless communication  
15 device may be deactivated by the subscriber.

16 c. Each subscriber shall be given a copy of the document, and a  
17 separate copy may be retained by the wireless telephone service  
18 provider.

19

20 4. a. If a subscriber purchases a wireless communication device  
21 via the provider's Internet web site, the provider shall inform the  
22 subscriber that the caller location technology of the wireless  
23 communication device may be deactivated by the subscriber. This  
24 information shall be provided via an electronic document posted on  
25 a separate web page that shall become visible when the subscriber is  
26 purchasing the wireless communication device. The electronic  
27 document shall meet all of the following requirements:

28 (1) it shall be designed to be completed interactively and  
29 electronically signed and dated by the subscriber;

30 (2) it shall list the telephone hotline and e-mail address  
31 established pursuant to section 2 of P.L. , c. (C. ) ( pending  
32 before the Legislature as this bill.) that the subscriber may use to  
33 receive step-by-step instructions to deactivate the location-based  
34 service of subscriber's wireless communication device.

35 (3) it shall be unambiguous and legible, and shall conspicuously  
36 disclose that, by electronically signing the document, the subscriber  
37 has been informed in writing that the caller location technology of  
38 that subscriber's wireless communication device may be  
39 deactivated; and

40 (4) it shall be available in a printable format and may be printed  
41 by the subscriber after the subscriber electronically signs the  
42 document.

43 b. A subscriber shall not be permitted to complete a cell phone  
44 purchase via the provider's Internet web site, unless that subscriber  
45 confirms that they have read the document and electronically signs  
46 and dates the document.

47 c. A provider shall not be required to verbally inform a  
48 subscriber that the caller location technology may be deactivated as

1 required under subsection b. of section 3 of P.L. , c. (C. )  
2 (pending before the Legislature as this bill.) if that subscriber  
3 purchases the wireless communication device via the provider's  
4 Internet web site.

5  
6 5. Each wireless telephone service provider shall inform  
7 subscribers who purchased a wireless communication device prior  
8 to the effective date of this act, that the location-based service  
9 capability of the wireless communication device may be deactivated  
10 by the subscriber. This information shall be provided via an  
11 electronic text message or e-mail sent directly to the subscriber's  
12 wireless communication device.

13  
14 6. Failure on the part of a wireless telephone service provider  
15 to comply P.L. , c. (C. ) (pending before the Legislature as this  
16 bill.) shall constitute an unlawful practice under P.L.1960, c.39  
17 (C.56:8-1 et seq.).

18  
19 7. This act shall take effect on the first day of the seventh  
20 month following enactment.

#### 21 22 23 STATEMENT

24  
25 This bill requires cell phone companies to inform customers that  
26 the location-based service provided by the company may be  
27 deactivated by the customer through his or her cell phone. In  
28 addition, the bill requires cell phone companies to establish and  
29 maintain a phone hotline and e-mail address that a customer may  
30 contact to receive step-by-step instructions describing the method  
31 by which to deactivate his or her location-based service.

32 "Location-based service" is defined as a service provided by a  
33 wireless communication service provider that uses the geographical  
34 positioning system of a wireless communication device to track the  
35 physical location of that wireless device. The bill specifies that this  
36 service is not enhanced 9-1-1 data, which allow emergency  
37 responders to find the location of an emergency by utilizing cell  
38 phone GPS data.

39 The bill further requires that information concerning the  
40 deactivation of the location-based service be provided to customers  
41 both verbally and in writing. The written document issued to a  
42 customer is required to be signed and dated by the customer, and is  
43 to disclose that the customer has been informed, both verbally and  
44 in writing, that the cell phone's location-based service may be  
45 deactivated. The document is to be issued separately from any  
46 other document, and must list the telephone hotline and e-mail  
47 address that the customer may contact to receive step-by-step

1 instructions describing the method by which to deactivate his or her  
2 location-based service.

3 The bill requires that every cell phone company which sells  
4 phones online post a document on the Internet informing the  
5 customer that the location-based service may be deactivated. The  
6 customer would not be permitted to complete the purchase unless he  
7 or she electronically signs and dates the document. The electronic  
8 document would provide the same information as a document  
9 issued in person.

10 Finally, all cell phone companies who entered into a contract  
11 with customers prior to the bill's effective date would be required to  
12 send those customers a text message providing information that a  
13 cell phone's location-based service may be deactivated.

14 A cell phone company's failure to comply with the provisions of  
15 the bill would constitute an unlawful practice. An unlawful practice  
16 under the Consumer Fraud Act is punishable by a monetary penalty  
17 of not more than \$10,000 for a first offense and not more than  
18 \$20,000 for any subsequent offense. In addition, a violation can  
19 result in cease and desist orders issued by the Attorney General, the  
20 assessment of punitive damages and the awarding of treble damages  
21 and costs to the injured party.