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Assemblyman Webber, Assemblywoman Timberlake, Assemblyman Benson, Assemblywoman Dunn, Assemblymen Mejia, Conaway, Freiman and Assemblywoman Haider

SYNOPSIS
Prohibits providers of commercial mobile service and developers of mobile application from disclosing customer’s global position system data to third parties under certain circumstances.

CURRENT VERSION OF TEXT
As reported by the Assembly Consumer Affairs Committee on June 2, 2022, with amendments.

(Sponsorship Updated As Of: 12/15/2022)
AN ACT concerning commercial mobile service providers and global positioning system data and supplementing Title 56 of the Revised Statutes.

BE IT ENACTED by the Senate and General Assembly of the State of New Jersey:

1. As used in P.L. ___, c. __ (C.__) (pending before the Legislature as this bill):
   "Commercial mobile service” means a type of mobile telecommunications service as defined in subsection (d) of section 332 of the Communications Act of 1934 (47 U.S.C. s.332(d)).
   “Commercial mobile service provider” or “provider” means an individual, proprietorship, partnership, corporation, association, or other legal entity that provides commercial mobile service on a mobile device.
   “Customer” means an individual within this State who provides, either knowingly or unknowingly, GPS data to a commercial mobile service provider or a mobile device application developer in the course of using the provider’s service or the developer’s application on a mobile device.
   "Disclose" means to release, transfer, share, disseminate, make available, sell, or otherwise communicate by any means to a third party a customer’s GPS data.
   “Global positioning system data” or “GPS data” means a customer’s physical location information collected by a global positioning system on a mobile device that is accessible to a commercial mobile service provider or a mobile device application developer.
   “Mobile device” means wireless telecommunications device that is capable of collecting a customer’s GPS data.
   1“Mobile device application” means an application software designed to run on a mobile device, such as a smartphone or tablet computer.
   “Mobile device application developer” or “developer” means any person, including corporate affiliates, that stores or processes a customer’s GPS data collected by a mobile device application.
   “Person” means a natural person, corporation, association, partnership, or other legal entity.
   “Third party” means an individual, proprietorship, partnership, corporation, association, or other legal entity that may knowingly or willfully disclose a customer’s GPS data.

2. a. A commercial mobile service provider that provides commercial mobile service to a customer or a developer of mobile

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.
Matter enclosed in superscript numerals has been adopted as follows:
1Assembly ACO committee amendments adopted June 2, 2022.
device applications shall not disclose the customer’s global positioning system data to a third party, unless the customer has given consent for the third party to access the customer’s GPS data.

In order to obtain consent from a customer for a third party to access the customer’s GPS data, a mobile device application developer shall provide the following notice in bold typeface to which the customer shall affirmatively elect: “I agree to allow my location data to be disclosed to a third party.”

b. A third party that accesses a customer’s GPS data pursuant to subsection a. of this section shall not sell the GPS data in any case, and shall disclose the GPS data otherwise only as necessary to effectuate the purpose for which consent was given.

c. The provisions of subsection a. of this section shall not apply to a commercial mobile service provider, developer of a mobile device application, or a third party required to disclose a customer’s GPS data to comply with applicable federal or State law, regulation, law enforcement investigation, legal process, or court order.

3. It shall be an unlawful practice and violation of P.L.1960, c.39 (C.56:8-1 et seq.) for a commercial mobile service provider, mobile device application developer, or a third party to disclose a customer’s GPS data in violation of section 2 of P.L. , c. (C. ) (pending before the Legislature as this bill).

c. (C. ) (pending before the Legislature as this bill).

4. The Director of the Division of Consumer Affairs in the Department of Law and Public Safety shall promulgate rules and regulations, pursuant to the “Administrative Procedure Act,” P.L.1968, c.410 (C.52:14B-1 et seq.), necessary to effectuate the purposes of P.L. , c. (C. ) (pending before the Legislature as this bill).

5. This act shall take effect immediately.