SENATE, No. 2953

STATE OF NEW JERSEY
220th LEGISLATURE

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Sponsored by:
Senator  GORDON M. JOHNSON
District 37 (Bergen)

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 introduced.
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.
“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
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).

d. 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.

STATEMENT

This bill prohibits commercial mobile service providers and mobile device application developers from disclosing a customer’s global positioning system (GPS) data to a third party, unless the customer has given consent for the third party to access the customer’s GPS data. The bill defines “third party” to mean an individual, proprietorship, partnership, corporation, association, or other legal entity that may knowingly or willfully disclose a customer’s GPS data. The bill defines “mobile device application developer” to mean any person, including corporate affiliates, that stores or processes a customer’s GPS data collected by a mobile device application. Furthermore, mobile device application developers are required to provide a consent notice to customers permitting the developer to disclose the customer’s GPS data to a third party.
The provisions of the bill require a third party that accesses a
customer’s GPS data, pursuant to the bill, to not sell the GPS data
in any case, and is to disclose the GPS data only as necessary to
effectuate the purpose for which consent was given.

The provisions of the bill are not to apply to a commercial
mobile service provider, mobile device application developer, 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.

The bill provides that a violation of its requirements is a
violation of the State’s consumer fraud act, which may result in a
penalty of not more than $10,000 for the first offense and not more
than $20,000 for the second and each subsequent offense.