

SENATE, No. 2953

STATE OF NEW JERSEY
220th LEGISLATURE

INTRODUCED JUNE 29, 2022

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.



1 AN ACT concerning commercial mobile service providers and
2 global positioning system data and supplementing Title 56 of the
3 Revised Statutes.

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

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8 1. As used in P.L. , c. (C.) (pending before the
9 Legislature as this bill):

10 "Commercial mobile service" means a type of mobile
11 telecommunications service as defined in subsection (d) of section
12 332 of the Communications Act of 1934 (47 U.S.C. s.332(d)).

13 "Commercial mobile service provider" or "provider" means an
14 individual, proprietorship, partnership, corporation, association, or
15 other legal entity that provides commercial mobile service on a
16 mobile device.

17 "Customer" means an individual within this State who provides,
18 either knowingly or unknowingly, GPS data to a commercial mobile
19 service provider or a mobile device application developer in the
20 course of using the provider's service or the developer's
21 application on a mobile device.

22 "Disclose" means to release, transfer, share, disseminate, make
23 available, sell, or otherwise communicate by any means to a third
24 party a customer's GPS data.

25 "Global positioning system data" or "GPS data" means a
26 customer's physical location information collected by a global
27 positioning system on a mobile device that is accessible to a
28 commercial mobile service provider or a mobile device application
29 developer.

30 "Mobile device" means wireless telecommunications device that
31 is capable of collecting a customer's GPS data.

32 "Mobile device application" means an application software
33 designed to run on a mobile device, such as a smartphone or tablet
34 computer.

35 "Mobile device application developer" or "developer" means any
36 person, including corporate affiliates, that stores or processes a
37 customer's GPS data collected by a mobile device application.

38 "Person" means a natural person, corporation, association,
39 partnership, or other legal entity.

40 "Third party" means an individual, proprietorship, partnership,
41 corporation, association, or other legal entity that may knowingly
42 or willfully disclose a customer's GPS data.

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44 2. a. A commercial mobile service provider that provides
45 commercial mobile service to a customer or a developer of mobile
46 device applications shall not disclose the customer's global
47 positioning system data to a third party, unless the customer has
48 given consent for the third party to access the customer's GPS data.

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

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

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

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

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

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30 5. This act shall take effect immediately.

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STATEMENT

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35 This bill prohibits commercial mobile service providers and
36 mobile device application developers from disclosing a customer's
37 global positioning system (GPS) data to a third party, unless the
38 customer has given consent for the third party to access the
39 customer's GPS data. The bill defines "third party" to mean an
40 individual, proprietorship, partnership, corporation, association, or
41 other legal entity that may knowingly or willfully disclose a
42 customer's GPS data. The bill defines "mobile device application
43 developer" to mean any person, including corporate affiliates, that
44 stores or processes a customer's GPS data collected by a mobile
45 device application. Furthermore, mobile device application
46 developers are required to provide a consent notice to customers
47 permitting the developer to disclose the customer's GPS data to a
48 third party.

S2953 JOHNSON

1 The provisions of the bill require a third party that accesses a
2 customer's GPS data, pursuant to the bill, to not sell the GPS data
3 in any case, and is to disclose the GPS data only as necessary to
4 effectuate the purpose for which consent was given.

5 The provisions of the bill are not to apply to a commercial
6 mobile service provider, mobile device application developer, or a
7 third party required to disclose a customer's GPS data to comply
8 with applicable federal or State law, regulation, law enforcement
9 investigation, legal process, or court order.

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