

**SENATE, No. 3638**

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**STATE OF NEW JERSEY**

**221st LEGISLATURE**

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INTRODUCED SEPTEMBER 19, 2024

**Sponsored by:**

**Senator PAUL D. MORIARTY**

**District 4 (Atlantic, Camden and Gloucester)**

**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.



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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 application  
21 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.

43

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.

16  
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  
21 P.L. , 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).

29  
30 5. This act shall take effect immediately.

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33 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. In order to obtain a customer's consent, the  
40 bill requires a mobile device application developer to provide notice  
41 to the customer, which customer would be required to affirmatively  
42 elect to allow their location data to be disclosed to a third party.  
43 However, the bill provides that these entities would not be required  
44 to obtain a customer's consent before disclosing any GPS data that  
45 is required to comply with a law or regulation, law enforcement  
46 investigation, legal process, or court order.

47 Under the bill, a third party that accesses a customer's GPS data  
48 would also be prohibited from selling the customer's data in any

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1 circumstances. Additionally, the bill provides that the third party  
2 may only disclose the customer's GPS data as necessary to  
3 effectuate the purpose for which the consent was given.

4 A commercial mobile service provider, mobile device  
5 application developer, or third party that violates the provisions of  
6 this bill would be deemed to violate the State's consumer fraud act,  
7 which may result in a penalty of not more than \$10,000 for the first  
8 offense and not more than \$20,000 for each subsequent offense.