

2015 Regular Session

SENATE BILL NO. 182

BY SENATOR THOMPSON

Prefiled pursuant to Article III, Section 2(A)(4)(b)(i) of the Constitution of Louisiana.

TELECOMMUNICATIONS. Enacts the Kelsey Smith Act to require certain communication carriers to provide cell phone location information to first responder officials in certain circumstances. (gov sig)

AN ACT

To enact Chapter 8-G-1 of Title 45 of the Louisiana Revised Statutes of 1950, to be comprised of R.S. 45:844.9 and 844.10, relative to wireless telecommunications devices; to provide for disclosure of location of a wireless telecommunications device under certain circumstances to law enforcement agencies; to provide for immunity; to provide for definitions, terms, conditions, and procedures; and to provide for related matters.

Be it enacted by the Legislature of Louisiana:

Section 1. Chapter 8-G-1 of Title 45 of the Louisiana Revised Statutes of 1950, comprised of R.S. 45:844.9 and 844.10, is hereby enacted to read as follows:

CHAPTER 8-G-1. KELSEY SMITH ACT

§844.9. Wireless telecommunications device location disclosure to law enforcement agencies; emergency situations

A. This Chapter shall be known and may be cited as the "Kelsey Smith Act".

B. Upon written request of a law enforcement agency, a wireless telecommunications service provider shall immediately provide location

1 information concerning the wireless telecommunications device of the user to
2 the requesting law enforcement agency for either of the following events:

3 (1) A call for emergency services initiated from the wireless
4 telecommunications device of the user.

5 (2) An emergency situation that involves the risk of death or serious
6 bodily harm to an individual.

7 C.(1) All wireless telecommunications service providers registered to do
8 business in this state, or submitting to the jurisdiction thereof, shall submit
9 emergency contact information to the Department of Public Safety and
10 Corrections, office of state police, in order to facilitate requests from law
11 enforcement agencies for location information in accordance with Subsection
12 A of this Section. Such contact information shall be submitted by July first of
13 each year or immediately upon any change in contact information.

14 (2)(a) The office of state police shall maintain a database containing
15 emergency contact information for all wireless telecommunications service
16 providers and shall make such information immediately available upon request
17 to all law enforcement agencies in the state.

18 (b) The office of state police may adopt rules in accordance with the
19 Administrative Procedure Act to implement the provisions of this Chapter.

20 D. Notwithstanding any other provision of law to the contrary, nothing
21 in this Section shall prohibit a wireless telecommunications service provider
22 from establishing protocols by which the provider voluntarily discloses device
23 location information.

24 E. For the purposes of this Chapter, a "wireless telecommunications
25 device" means a cellular telephone, a text-messaging device, a personal digital
26 assistant, a stand-alone computer, or any other substantially similar wireless
27 device that is used to engage in a call, write, send, or read text or data through
28 manual input.

29 §844.10. Immunity for wireless telecommunications carriers

1 No person shall have a cause of action against any wireless
 2 telecommunications service provider, its officers, employees, agents, or other
 3 specified persons for providing device location information while acting in good
 4 faith and in accordance with the provisions of this Chapter. The provisions of
 5 this Section shall not apply to damage or injury caused by gross negligence or
 6 willful and wanton misconduct.

7 Section 2. This Act shall become effective upon signature by the governor or, if not
 8 signed by the governor, upon expiration of the time for bills to become law without signature
 9 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If
 10 vetoed by the governor and subsequently approved by the legislature, this Act shall become
 11 effective on the day following such approval.

The original instrument and the following digest, which constitutes no part
 of the legislative instrument, were prepared by Michelle Ridge.

DIGEST

SB 182 Original 2015 Regular Session Thompson

Proposed law creates the "Kelsey Smith Act".

Proposed law provides that upon written request of a law enforcement agency, a wireless telecommunications service provider shall immediately provide location information concerning the wireless telecommunications device of the user to the requesting law enforcement agency if either of the following events occurs:

- (1) A call for emergency services initiated from the wireless telecommunications device of the user.
- (2) An emergency situation that involves the risk of death or serious bodily harm to an individual.

Proposed law provides that all wireless telecommunications service providers registered to do business in this state, or submitting to the jurisdiction thereof, shall submit emergency contact information to the Dept. of Public Safety and Corrections, office of state police, in order to facilitate requests from law enforcement agencies for location information. Such contact information shall be submitted by July first of each year or immediately upon any change in contact information.

Proposed law provides that the office of state police shall maintain a database containing emergency contact information for all wireless telecommunications service providers and shall make such information immediately available upon request to all law enforcement agencies in the state.

Proposed law provides that the office of state police may adopt rules in accordance with the Administrative Procedure Act to implement the provisions of proposed law.

Proposed law provides that notwithstanding any other provision of law to the contrary, a

wireless telecommunications service provider may establish protocols by which the provider voluntarily discloses device location information.

Proposed law defines a "wireless telecommunications device" as a cellular telephone, a text-messaging device, a personal digital assistant, a stand-alone computer, or any other substantially similar wireless device that is used to engage in a call, write, send, or read text or data through manual input.

Proposed law provides that no person shall have a cause of action against any wireless telecommunications service provider, its officers, employees, agents, or other specified persons for providing device location information while acting in good faith and in accordance with the provisions of proposed law. Also provides that proposed law shall not apply to damage or injury caused by gross negligence or willful and wanton misconduct.

Effective upon signature of the governor or lapse of time for gubernatorial action.

(Adds R.S. 45:844.9 and 844.10)