

2015 Regular Session

SENATE BILL NO. 182

BY SENATORS THOMPSON, APPEL, CORTEZ AND WHITE

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

TELECOMMUNICATIONS. Enacts the Kelsey Smith Act to require commercial mobile service device providers to provide device location information to law enforcement agencies 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 relative to certain commercial mobile services; to provide for disclosure of device location information 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. Commercial mobile service 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 receipt of an electronic or other written request of a law enforcement agency, a provider of commercial mobile services, as defined by 47

1 U.S.C. 332(d), shall provide device location information concerning the
2 commercial mobile service device of the user to the requesting law enforcement
3 agency for either of the following events:

4 (1) A call for emergency services initiated from the commercial mobile
5 service device of the user.

6 (2) An emergency situation that involves the risk of death or serious
7 bodily harm to the user of the commercial mobile service device.

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

15 (2)(a) The office of state police shall maintain a database containing
16 emergency contact information for all providers of commercial mobile services
17 and shall make such information immediately available to all law enforcement
18 agencies in the state.

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

21 D. Notwithstanding any other provision of law to the contrary, nothing
22 in this Chapter shall prohibit a provider of commercial mobile services from
23 establishing protocols by which the provider voluntarily discloses device
24 location information.

25 E. Any release of information made in accordance with the provisions
26 of this Chapter shall be made in a manner respectful of a user's right to privacy
27 as provided by law.

28 §844.10. Immunity for providers of commercial mobile services

29 No person shall have a cause of action against any provider of

1 commercial mobile services, its officers, employees, agents, or other specified
 2 persons for providing device location information while acting in good faith and
 3 in accordance with the provisions of this Chapter. The provisions of this
 4 Section shall not apply to damage or injury caused by gross negligence or willful
 5 and wanton misconduct.

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

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Thompson

Proposed law creates the "Kelsey Smith Act".

Proposed law provides that upon receipt of an electronic or other written request of a law enforcement agency, a provider of commercial mobile services shall provide device location information concerning the commercial mobile service device of the user to the requesting law enforcement officer agency if either of the following events occurs:

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

Proposed law provides that all providers of commercial mobile services 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. The contact information shall be submitted by July first of each year and 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 providers of commercial mobile services and shall make such information immediately available 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 provider of commercial mobile services may establish protocols by which the provider voluntarily discloses device location information.

Proposed law provides that the release of information made in accordance with proposed law shall be made in a manner respectful of a user's right to privacy.

Proposed law provides that no person shall have a cause of action against any provider of commercial mobile services, 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)

Summary of Amendments Adopted by Senate

Committee Amendments Proposed by Senate Committee on Commerce, Consumer Protection, and International Affairs to the original bill

1. Replaces the term "wireless telecommunications device" with "commercial mobile service device"
2. Deletes the requirement that a provider respond immediately to a request made by law enforcement agencies.
3. Changes the written request of a law enforcement agency to include an electronic or other written request.
4. Provides that a release of requested information be made in a manner respectful to a person's right of privacy.