

2015 Regular Session

HOUSE BILL NO. 456

BY REPRESENTATIVES THIERRY, BARROW, CARMODY, COX, EDWARDS, HALL, HARRISON, HAVARD, HAZEL, HOLLIS, JACKSON, JAMES, JEFFERSON, JONES, LEBAS, MIGUEZ, ORTEGO, OURSO, PIERRE, PONTI, PRICE, REYNOLDS, SMITH, ST. GERMAIN, TALBOT, PATRICK WILLIAMS, AND WOODRUFF

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

TELECOMMUNICATIONS: Requires commercial mobile service providers and telecommunications carriers to disclose call location information to law enforcement agencies during emergency situations

1 AN ACT

2 To enact Chapter 8-L of Title 45 of the Louisiana Revised Statutes of 1950, to be comprised
3 of R.S. 45:844.61 through 844.67, relative to commercial mobile service providers
4 and telecommunications carriers; to provide for a short title; to provide for
5 definitions; to require disclosure of call location information in emergency
6 situations; to provide for limited liability; to allow for protocols relative to voluntary
7 disclosure of call location information; to provide for an emergency contact listing;
8 to provide for enforcement; to provide for rules and regulations; to provide for
9 special effectiveness dates; and to provide for related matters.

10 Be it enacted by the Legislature of Louisiana:

11 Section 1. Chapter 8-L of Title 45 of the Louisiana Revised Statutes of 1950,
12 comprised of R.S. 45:844.61 through 844.67, is hereby enacted to read as follows:

13 CHAPTER 8-L. LOUISIANA KELSEY SMITH ACT

14 §844.61. Short title

15 This Chapter shall be known and may be cited as "The Louisiana Kelsey
16 Smith Act".

1 §844.62. Definitions

2 As used in this Chapter, the following terms and phrases have the meanings
3 hereinafter ascribed to them:

4 (1) "Department" means the Louisiana Department of Public Safety and
5 Corrections.

6 (2) "Emergency" means an actual or imminent threat that may result in or
7 involve the danger of death or serious physical harm.

8 (3) "Law enforcement agency" means any municipality, sheriff's office, or
9 other public agency who employs full-time employees of the state whose permanent
10 duties include but are not limited to:

11 (a) Making arrests.

12 (b) Performing searches and seizures.

13 (c) Executing criminal warrants.

14 (d) Preventing or detecting crime.

15 (e) Enforcing the penal, traffic, or highway laws of this state.

16 (4) "Telecommunications service" means the two-way transmission of signs,
17 signals, writing, images, sounds, messages, data, or other information of any nature
18 by wire, radio, light waves, or other electromagnetic means offered to the public
19 generally.

20 §844.63. Disclosure of call location information

21 A commercial mobile service provider or telecommunications carrier as
22 identified in or regulated by 47 U.S.C. 332(d)(1) and 47 CFR Parts 20, 22, and 24
23 shall, in an emergency situation, provide the following information upon the request
24 of a law enforcement agency:

25 (1) The call location information concerning the user of a commercial mobile
26 service or telecommunications service when necessary to enable the law enforcement
27 agency to respond to a call for emergency service by a subscriber, customer, or user
28 of a telecommunications service as identified in this Chapter.

1 (2) The call location information obtained by any means of technology,
2 which is either available or required pursuant to 47 CFR Part 20, when disclosure of
3 that information relating to the emergency is required. The call location information
4 as identified in this Paragraph shall be disclosed to the law enforcement agency
5 making the request when it is reasonable to expect that any delay in the disclosure
6 may result in or involve the danger of death or serious physical harm.

7 §844.64. Liability

8 No commercial mobile service provider, telecommunications carrier, or its
9 officers, employees, agents, or other designees, shall be held liable for:

10 (1) Providing any information, facilities, or assistance to a law enforcement
11 agency in response to a request made pursuant to this Chapter.

12 (2) Providing any information, facilities, or assistance to a law enforcement
13 agency by means of any method, plan, system, or technology as required by this
14 Chapter.

15 (3) Causing any loss, damage, or other injury, whether to person or property,
16 that results from a disruption or loss of communication service during an emergency
17 situation, except in the case of gross negligence, recklessness, or intentional
18 misconduct.

19 §844.65. Protocols

20 Notwithstanding any other provision of law, nothing in this Chapter prohibits
21 a commercial mobile service provider or telecommunications carrier from
22 establishing protocols by which such a provider or carrier can voluntarily disclose
23 call location information.

24 §844.66. Emergency contact listing

25 A. Every commercial mobile service provider or telecommunications carrier
26 who is registered to do business in Louisiana or submits to the jurisdiction thereof
27 shall submit its emergency contact information to the Louisiana Department of
28 Public Safety and Corrections in order to facilitate a request for call location
29 information made by a law enforcement agency in accordance with this Chapter.

1 This emergency contact information shall be submitted in writing and shall be
2 submitted annually on or before January fifteenth of each year and immediately upon
3 any change in the contact information.

4 B. The department shall maintain a listing containing the emergency contact
5 information for every commercial mobile service provider or telecommunications
6 carrier who is registered to do business in Louisiana or submits to the jurisdiction
7 thereof and shall make the information immediately available to every law
8 enforcement agency acting in accordance with this Chapter.

9 §844.67. Violations; enforcement

10 A. No commercial mobile service provider or telecommunications carrier
11 shall intentionally violate or fail to perform any duty imposed by the provisions of
12 this Chapter.

13 B. The department and any law enforcement agency may enforce the
14 provisions of this Chapter.

15 Section 2. The Louisiana Department of Public Safety and Corrections shall
16 promulgate, in accordance with the Administrative Procedure Act, any rules and regulations
17 necessary to implement the provisions of this Act.

18 Section 3. Section 1 of this Act shall become effective on January 1, 2016.

19 Section 4. The provisions of this Section and Sections 2 and 3 of this Act shall
20 become effective upon signature of this Act by the governor or, if not signed by the
21 governor, upon expiration of the time for bills to become law without signature by the
22 governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If this Act
23 is vetoed by the governor and subsequently approved by the legislature, the provisions of
24 this Section and Sections 2 and 3 of this Act shall become effective on the day following
25 such approval.

DIGEST

The digest printed below was prepared by House Legislative Services. It constitutes no part of the legislative instrument. The keyword, one-liner, abstract, and digest do not constitute part of the law or proof or indicia of legislative intent. [R.S. 1:13(B) and 24:177(E)]

HB 456 Reengrossed

2015 Regular Session

Thierry

Abstract: Requires commercial mobile service providers and telecommunications carriers to disclose call location information to law enforcement agencies during emergency situations and allows for the establishment of procedures.

Proposed law enacts the Louisiana Kelsey Smith Act.

Proposed law enumerates definitions for the purposes of proposed law in order to provide for clarification.

Proposed law defines "commercial mobile service providers" and "telecommunications carriers" as they are identified and regulated by specified federal law. Proposed law identifies the emergency circumstances in which a law enforcement agency may require a commercial mobile service provider or telecommunications carrier to provide them with specific call location information.

Proposed law provides limited liability for commercial mobile service providers, telecommunications carriers, and their officers, employees, agents, or other designees when disclosing call location information to law enforcement agencies pursuant to the provisions of proposed law.

Proposed law allows commercial mobile service providers and telecommunications carriers to maintain or establish protocols by which they may voluntarily disclose call location information.

Proposed law requires commercial mobile service providers and telecommunications carriers who are either registered to do business in Louisiana or submit to the jurisdiction thereof to annually submit their emergency contact information to the Dept. of Public Safety and Corrections (DPS&C) to facilitate requests made by law enforcement agencies pursuant to the provisions of proposed law. Proposed law requires the DPS&C to maintain a listing of the emergency contact information they receive from commercial mobile service providers and telecommunications carriers.

Proposed law empowers the DPS&C and law enforcement agencies of this state to enforce the provisions of proposed law.

Proposed law directs the DPS&C to promulgate any rules and regulations in accordance with the Administrative Procedure Act necessary to implement the provisions of proposed law.

Proposed law provides for effective dates.

(Adds R.S. 45:844.61-844.67)

Summary of Amendments Adopted by House

The Committee Amendments Proposed by House Committee on Commerce to the original bill:

1. Make technical changes.

2. Remove a nonexclusive list from the defined term "law enforcement agency".
3. Remove authorization permitting the Dept. of Public Safety and Corrections ("DPS&C") to promulgate specified rules or regulation relative to penalties for violations.
4. Remove reference to an establishment of a schedule of fines for violations.
5. Authorize the DPS&C to promulgate rules and regulations in accordance with the Administrative Procedure Act necessary to implement the provisions of proposed law.

The House Floor Amendments to the engrossed bill:

1. Make technical changes.
2. Modify the definition of the term "law enforcement agency" for clarification.