

SENATE BILL NO. 182

BY SENATOR THOMPSON AND REPRESENTATIVES THIERRY, COX, HALL,  
HARRISON, JACKSON, MIGUEZ, ORTEGO, OURSO, PIERRE,  
REYNOLDS AND WOODRUFF

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

1 AN ACT

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

8 Be it enacted by the Legislature of Louisiana:

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

11 **CHAPTER 8-G-1. KELSEY SMITH ACT**

12 **§844.9. Commercial mobile service device location disclosure to law**  
13 **enforcement agencies; emergency situations**

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

16 **B.(1) When acting in the course and scope of his official duties, a law**  
17 **enforcement agency supervisor shall have the authority to submit an electronic**  
18 **or other written request to a provider of commercial mobile services, as defined**  
19 **by 47 U.S.C. 332(d), for device location information of a commercial mobile**  
20 **service device user if either of the following events has occurred:**

1           (a) A call for emergency services initiated from the device of the user.

2           (b) An emergency situation that involves the risk of death or serious  
3           bodily harm to the device user.

4           (2) Upon receipt of the request, the provider of commercial mobile  
5           services shall disclose to the law enforcement agency the device location  
6           information.

7           (3) When making a request for device location information pursuant to  
8           the provisions of this Chapter, the law enforcement agency making the request  
9           shall search the National Crime Information Center system and similar  
10           databases to identify whether the device user or the person initiating the call,  
11           during an emergency situation involving the device user, either has a history of  
12           domestic violence or is subject to any court order restricting contact.

13           (4) The information obtained by a law enforcement agency pursuant to  
14           the provisions of this Subsection shall be used solely for the performance of  
15           official duties.

16           (5) No device location information shall be released by the law  
17           enforcement agency to a person who either has a history of domestic violence  
18           or stalking or who is subject to any court order restricting contact with the  
19           device user.

20           (6) For the purposes of this Chapter, "law enforcement agency" means  
21           any municipality, sheriff's office, or other public agency who employs full-time  
22           employees of the state whose permanent duties include but are not limited to:

23           (a) Making arrests.

24           (b) Performing searches and seizures.

25           (c) Executing criminal warrants.

26           (d) Preventing or detecting crime.

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

28           C.(1) All providers of commercial mobile services who are registered to  
29           do business in this state, or who submit to the jurisdiction thereof, shall submit  
30           emergency contact information to the Department of Public Safety and

1 Corrections, office of state police, in order to facilitate requests from law  
2 enforcement agencies for location information in accordance with the provisions  
3 of this Chapter. The contact information shall be submitted by July first of  
4 each year and immediately upon any change in contact information.

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

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

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

15 E. No person shall file a report with knowledge of the falsity of the  
16 information contained therein to a law enforcement agency for the purpose of  
17 device location information being requested from a provider of commercial  
18 mobile services. Whoever violates the provisions of this Subsection shall be  
19 fined not more than five hundred dollars, or imprisoned for not more than six  
20 months, or both.

21 §844.10. Immunity for providers of commercial mobile services

22 No person shall have a cause of action against any provider of  
23 commercial mobile services, its officers, employees, agents, or other specified  
24 persons for providing device location information while acting in good faith and  
25 in accordance with the provisions of this Chapter. The provisions of this  
26 Section shall not apply to damage or injury caused by either gross negligence  
27 or willful and wanton misconduct.

28 Section 2. This Act shall become effective upon signature by the governor or, if not  
29 signed by the governor, upon expiration of the time for bills to become law without signature  
30 by the governor, as provided by Article III, Section 18 of the Constitution of Louisiana. If

1 vetoed by the governor and subsequently approved by the legislature, this Act shall become  
2 effective on the day following such approval.

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PRESIDENT OF THE SENATE

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SPEAKER OF THE HOUSE OF REPRESENTATIVES

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GOVERNOR OF THE STATE OF LOUISIANA

APPROVED: \_\_\_\_\_