



Rep. Arthur Turner

Filed: 3/26/2019

10100HB3358ham001

LRB101 11180 JLS 58396 a

1 AMENDMENT TO HOUSE BILL 3358

2 AMENDMENT NO. _____. Amend House Bill 3358 by replacing
3 everything after the enacting clause with the following:

4 "Section 1. Short title. This Act may be cited as the
5 Geolocation Privacy Protection Act.

6 Section 5. Definitions. As used in this Act:

7 "Geolocation information" means information that: (i) is
8 not the contents of a communication; (ii) is generated by or
9 derived from, in whole or in part, the operation of a mobile
10 device, including, but not limited to, a smart phone, tablet,
11 or laptop computer; and (iii) is sufficient to determine or
12 infer the precise location of that device. "Geolocation
13 information" does not include Internet protocol addresses.

14 "Location-based application" means a software application
15 that is downloaded or installed onto a device and collects,
16 uses, or stores geolocation information.

1 "Private entity" means any individual, partnership,
2 corporation, limited liability company, association, or other
3 group, however organized. "Private entity" does not include any
4 governmental agency.

5 "User" means a person who purchases or leases a device.

6 Section 10. Collection, use, storage, and disclosure of
7 geolocation information from location-based applications.

8 (a) A private entity that owns, operates, or controls a
9 location-based application on a user's device may not collect,
10 use, store, or disclose geolocation information from a
11 location-based application unless the private entity first
12 receives the user's affirmative express consent after
13 providing clear and accurate notice that:

14 (1) informs the person that his or her geolocation
15 information will be collected, used, or disclosed;

16 (2) informs the person of the purpose or purposes for
17 which his or her geolocation information will be collected
18 or used; and

19 (3) informs the person if his or her geolocation
20 information will be disclosed and identifies the names or
21 categories of private entities to which geolocation
22 information may be disclosed.

23 (b) A private entity may collect, use, store, or disclose
24 geolocation information from a location-based application on a
25 user's device without receiving affirmative express consent if

1 the collection, storage, or disclosure is:

2 (1) to allow a parent or legal guardian to locate an
3 unemancipated minor child;

4 (2) to allow a court-appointed guardian to locate a
5 legally incapacitated person; or

6 (3) for the provision of fire, medical, public safety,
7 or other emergency services.

8 (c) This Section shall not apply to geolocation information
9 that is stored locally and is not removed from a user's device.

10 (d) A private entity need not obtain a person's affirmative
11 express consent after the person's initial consent as described
12 in subsection (a) has been obtained unless the terms previously
13 agreed to under items (1), (2), and (3) of subsection (a) are
14 materially changed.

15 (e) This Section applies to location-based applications
16 created or modified after the effective date of this Act.

17 Section 15. Violation. A violation of this Act constitutes
18 a violation of the Consumer Fraud and Deceptive Business
19 Practices Act.

20 Section 20. Waivers; contracts.

21 (a) Any waiver of the provisions of this Act is void and
22 unenforceable.

23 (b) Any agreement created or modified after the effective
24 date of this Act that does not comply with this Act is void and

1 unenforceable.

2 Section 25. Applicability. This Act does not apply to:

3 (1) a health care provider or other covered entity
4 subject to the Federal Health Insurance Portability and
5 Accountability Act of 1996 and the rules promulgated
6 thereunder;

7 (2) a financial institution or an affiliate of a
8 financial institution that is subject to Title V of the
9 federal Gramm-Leach-Bliley Act and the rules promulgated
10 thereunder;

11 (3) entities regulated under the Transportation
12 Network Providers Act or any of their subsidiaries that
13 own, operate, or control a location-based application, the
14 sole function of which is to provide transportation
15 services based on geolocation information, to the extent
16 that these entities or their subsidiaries use the
17 geolocation information for the sole purpose of providing a
18 service requested by the individual or the use is otherwise
19 consistent with that individual's reasonable expectations
20 considering the context in which the individual provided
21 the geolocation information to the private entity; or

22 (4) the following entities and affiliates, as defined
23 in 17 CFR 230.405, of any such entities: telecommunications
24 carriers as defined in 13-202 of the Public Utilities Act
25 and wireless carriers as defined in Section 2 of the

1 Emergency Telephone System Act.

2 Section 90. The Consumer Fraud and Deceptive Business
3 Practices Act is amended by changing Section 2Z as follows:

4 (815 ILCS 505/2Z) (from Ch. 121 1/2, par. 262Z)

5 Sec. 2Z. Violations of other Acts. Any person who knowingly
6 violates the Automotive Repair Act, the Automotive Collision
7 Repair Act, the Home Repair and Remodeling Act, the Dance
8 Studio Act, the Geolocation Privacy Protection Act, the
9 Physical Fitness Services Act, the Hearing Instrument Consumer
10 Protection Act, the Illinois Union Label Act, the Installment
11 Sales Contract Act, the Job Referral and Job Listing Services
12 Consumer Protection Act, the Travel Promotion Consumer
13 Protection Act, the Credit Services Organizations Act, the
14 Automatic Telephone Dialers Act, the Pay-Per-Call Services
15 Consumer Protection Act, the Telephone Solicitations Act, the
16 Illinois Funeral or Burial Funds Act, the Cemetery Oversight
17 Act, the Cemetery Care Act, the Safe and Hygienic Bed Act, the
18 Illinois Pre-Need Cemetery Sales Act, the High Risk Home Loan
19 Act, the Payday Loan Reform Act, the Mortgage Rescue Fraud Act,
20 subsection (a) or (b) of Section 3-10 of the Cigarette Tax Act,
21 subsection (a) or (b) of Section 3-10 of the Cigarette Use Tax
22 Act, the Electronic Mail Act, the Internet Caller
23 Identification Act, paragraph (6) of subsection (k) of Section
24 6-305 of the Illinois Vehicle Code, Section 11-1431, 18d-115,

1 18d-120, 18d-125, 18d-135, 18d-150, or 18d-153 of the Illinois
2 Vehicle Code, Article 3 of the Residential Real Property
3 Disclosure Act, the Automatic Contract Renewal Act, the Reverse
4 Mortgage Act, Section 25 of the Youth Mental Health Protection
5 Act, the Personal Information Protection Act, or the Student
6 Online Personal Protection Act commits an unlawful practice
7 within the meaning of this Act.

8 (Source: P.A. 99-331, eff. 1-1-16; 99-411, eff. 1-1-16; 99-642,
9 eff. 7-28-16; 100-315, eff. 8-24-17; 100-416, eff. 1-1-18;
10 100-863, eff. 8-14-18.)".