

STATE OF NEW YORK

10677

IN ASSEMBLY

August 12, 2022

Introduced by COMMITTEE ON RULES -- (at request of M. of A. L. Rosenthal) -- read once and referred to the Committee on Consumer Affairs and Protection

AN ACT to amend the general business law, in relation to prohibiting geofencing by digital advertisers at health care facilities

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. The general business law is amended by adding a new section
2 396-aaaa to read as follows:

3 § 396-aaaa. Prohibition on geofencing. 1. For the purposes of this
4 section, the following terms shall have the following meanings:

5 a. "Digital advertiser" shall mean any person, corporation, partner-
6 ship or association that delivers digital advertisements by electronic
7 means.

8 b. "Digital advertisement" shall include any communication delivered
9 by electronic means that is intended to be used for the purposes of
10 marketing, solicitation, or dissemination of information related,
11 directly or indirectly, to goods or services provided by the digital
12 advertiser or a third party.

13 c. "Delivered by electronic means" shall include delivery to an elec-
14 tronic mail address, posting on an electronic network or site accessible
15 via the internet, mobile application, computer, mobile device, tablet,
16 or any other electronic device used by a natural person.

17 d. "Geofencing" shall mean a technology that uses global positioning
18 system coordinates, cell tower connectivity, cellular data, radio
19 frequency identification, Wi-Fi data and/or any other form of location
20 detection, to establish a virtual boundary or "geofence" around a
21 particular location that allows a digital advertiser to track the
22 location of an individual user and electronically deliver targeted
23 digital advertisements directly to such user's mobile device upon such
24 user's entry into the geofenced area.

25 e. "Health care facility" shall mean any governmental or private agen-
26 cy, department, institution, clinic, laboratory, hospital, physician's
27 office, nursing care facility, health maintenance organization, associ-

EXPLANATION--Matter in italics (underscored) is new; matter in brackets
[-] is old law to be omitted.

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1 ation or other similar entity that provides medical care or related
2 services pursuant to the provisions of the public health law or the
3 mental hygiene law, including the building or structure in which the
4 facility is located.

5 f. "User" shall mean a natural person who owns or uses a mobile device
6 or any other connected electronic device capable of receiving digital
7 advertisements.

8 2. a. It shall be unlawful for any person, corporation, partnership or
9 association to deliver by electronic means any digital advertisement to
10 a user through the use of geofencing at any health care facility as
11 defined in paragraph e of subdivision one of this section.

12 b. It shall be unlawful for any person, corporation, partnership or
13 association to establish a geofence or similar virtual boundary in or
14 around any health care facility for the purpose of delivering by elec-
15 tronic means a digital advertisement to a user within such health care
16 facility.

17 § 2. This act shall take effect on the thirtieth day after it shall
18 have become a law.