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:

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

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

a. "Digital advertiser" shall mean any person, corporation, partnership or association that delivers digital advertisements by electronic means.

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

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

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

e. "Health care facility" shall mean any governmental or private agency, department, institution, clinic, laboratory, hospital, physician's 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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ation or other similar entity that provides medical care or related services pursuant to the provisions of the public health law or the mental hygiene law, including the building or structure in which the facility is located.

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

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

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

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