STATE OF NEW YORK

4699

2021-2022 Regular Sessions

IN ASSEMBLY

February 5, 2021

Introduced by M. of A. SEAWRIGHT -- read once and referred to the Committee on Science and Technology

AN ACT to amend the general business law, in relation to enacting the "Kelsey Smith Act" requiring wireless service providers to provide call location information to law enforcement during an emergency

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

Section 1. Short title. This act shall be known and may be cited as the "Kelsey Smith Act".

§ 2. The general business law is amended by adding a new section 399-hh to read as follows:

§ 399-hh. Disclosure of call location information by wireless service providers to law enforcement. 1. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Wireless service provider" shall have the same meaning as the term "wireless communications service supplier" as defined in subdivision twelve of section three hundred one of the county law.

(b) "Location information" means all data and information collected by a wireless service provider which is capable of identifying the location of a wireless communications device.

(c) "Wireless communications device" shall have the same meaning as such term is defined in section three hundred one of the county law.

(d) "Public safety answering point" means any state or local public safety answering point as those terms are defined in subdivisions nine and ten of section three hundred twenty-five of the county law.

2. Disclosure of location information in cases of emergency. (a) Every wireless service provider operating in this state shall, upon request of a law enforcement agency or a public safety answering point acting on behalf of a law enforcement agency, disclose to such law enforcement agency or public safety answering point all location information collected from a wireless communications device:

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

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(i) that was used to place a 911 call requesting emergency assistance; or

(ii) that the requesting agency reasonably believes to be in the possession of an individual involved in an emergency situation that involves imminent risk of death or serious physical injury to such individual.

(b) Whenever a request for location information is made pursuant to paragraph (a) of this subdivision, the law enforcement agency or public safety answering point acting on its behalf shall maintain a record of the request that includes each of the following:

(i) the name of the officer or agent making the request or, in the case of a request made by an agent, the name of the officer on whose behalf the agent is acting;

(ii) a description of the request that explains the need for disclosure of location information; and

(iii) a statement subscribed by such person declaring that disclosure is necessary based on the conditions described in subparagraph (i) or (ii) of paragraph (a) of this subdivision, bearing a form notice that false statements made therein are punishable as a class A misdemeanor pursuant to section 210.45 of the penal law.

3. Every wireless service provider operating in this state shall provide its contact information to the New York state interoperable and emergency communication board to facilitate requests made pursuant to subdivision two of this section. The board shall disseminate all such contact information to every law enforcement agency and public safety answering point in the state.

4. A wireless service provider may establish protocols by which such provider voluntarily discloses call location information.

§ 2. This act shall take effect immediately.