

STATE OF NEW YORK

6454

2021-2022 Regular Sessions

IN SENATE

April 29, 2021

Introduced by Sen. SANDERS -- read twice and ordered printed, and when printed to be committed to the Committee on Consumer Protection

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:

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

3 § 2. The general business law is amended by adding a new section
4 399-hh to read as follows:

5 § 399-hh. Disclosure of call location information by wireless service
6 providers to law enforcement. 1. Definitions. As used in this section,
7 the following terms shall have the following meanings:

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

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

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

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

19 2. Disclosure of location information in cases of emergency. (a) Every
20 wireless service provider operating in this state shall, upon request of
21 a law enforcement agency or a public safety answering point acting on
22 behalf of a law enforcement agency, disclose to such law enforcement
23 agency or public safety answering point all location information
24 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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1 (i) that was used to place a 911 call requesting emergency assistance;
2 or

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

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

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

14 (ii) a description of the request that explains the need for disclo-
15 sure of location information; and

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

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

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

29 § 2. This act shall take effect immediately.