

SENATE BILL NO. 117

IN THE LEGISLATURE OF THE STATE OF ALASKA

THIRTIETH LEGISLATURE - FIRST SESSION

BY SENATORS DUNLEAVY, Costello

Introduced: 4/19/17

Referred: State Affairs, Judiciary

A BILL

FOR AN ACT ENTITLED

1 **"An Act relating to the collection, use, storage, and disclosure of geolocation**
2 **information; and establishing an unfair trade practice under the Alaska Unfair Trade**
3 **Practices and Consumer Protection Act."**

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 45.48 is amended by adding new sections to read:

6 **Article 6A. Geolocation Information Protection.**

7 **Sec. 45.48.800. Collection, use, storage, and disclosure of geolocation**
8 **information.** Except as provided in AS 45.48.820, a private person may not collect,
9 use, store, or disclose an individual's geolocation information that the private person
10 obtained from a location-based application on the individual's mobile electronic
11 device, unless the private person first provides the individual with written notice under
12 AS 45.48.810 and the individual expressly consents to the disclosure. In this section,
13 "location-based application" means a computer software program that collects, uses,
14 or stores geolocation information.

1 **Sec. 45.48.810. Notice requirements.** The notice required by AS 45.48.800
2 must

- 3 (1) be clear, prominent, and accurate;
- 4 (2) inform the individual that the private person will collect, use, store,
5 or disclose the individual's geolocation information;
- 6 (3) inform the individual of the specific purposes for which the private
7 person will collect, use, store, or disclose the individual's geolocation information; and
- 8 (4) provide the individual with a hyperlink or comparable easily
9 accessible means on the Internet to access the individual's geolocation information that
10 the private person collects, uses, stores, or discloses; in this paragraph, "hyperlink"
11 means a highlighted word or picture on an Internet document or page that the
12 individual can click to access the geolocation information.

13 **Sec. 45.48.820. Exemptions.** (a) A private person may collect, use, store, or
14 disclose an individual's geolocation information without providing the notice required
15 by AS 45.48.800 or receiving the express consent of the individual

16 (1) if the private person is collecting, using, storing, or disclosing the
17 private person's own geolocation information;

18 (2) to allow a parent or other lawful custodian of a minor child to
19 locate the minor child; in this paragraph,

20 (A) "lawful custodian" has the meaning given in AS 11.41.370;

21 (B) "minor child" means a child who is under 18 years of age
22 and whose disabilities of minority have not been removed under AS 09.55.590;

23 (3) to allow a court-appointed guardian to locate an incapacitated
24 person; in this paragraph, "incapacitated person" has the meaning given in
25 AS 13.26.005; or

26 (4) to allow a person to provide fire, medical, public safety, or other
27 emergency services.

28 (b) AS 45.48.800 - 45.48.880 do not apply to utilities that furnish
29 telecommunications services regulated under AS 42.05. In this subsection,
30 "telecommunications" has the meaning given in AS 42.05.990.

31 **Sec. 45.48.830. Effect on contracts.** A contract that violates AS 45.48.800 -

1 45.48.880 is void and unenforceable.

2 **Sec. 45.48.840. Waivers.** A person may not waive the provisions of
3 AS 45.48.800 - 45.48.880. A waiver of the provisions of AS 45.48.800 - 45.48.880 is
4 void and unenforceable.

5 **Sec. 45.48.850. Violations.** If a private person violates AS 45.48.800 -
6 45.48.880, the violation is an unfair or deceptive act or practice under AS 45.50.471 -
7 45.50.561, except that AS 45.50.531 does not apply to the violation; however, the
8 individual whose geolocation information was the subject of the violation may bring a
9 civil action in court to

10 (1) recover liquidated damages of \$1,000 or actual damages,
11 whichever amount is greater; and

12 (2) obtain other relief that the court determines is appropriate.

13 **Sec. 45.48.860. Relationship to federal law.** AS 45.48.800 - 45.48.880 do not
14 apply to a

15 (1) health care provider or other person that is subject to P.L. 104-191
16 (Health Insurance Portability and Accountability Act of 1996) and the regulations
17 adopted under that law;

18 (2) financial institution or an affiliate of a financial institution that is
19 subject to 15 U.S.C. 6801 - 6809 of the Gramm-Leach-Bliley Financial Modernization
20 Act and the regulations adopted under that law.

21 **Sec. 45.48.870. Definitions.** In AS 45.48.800 - 45.48.880,

22 (1) "geolocation information" means information identifying the
23 geographical location of a person or device by using digital information processed
24 through the Internet; "geolocation information" does not include Internet protocol
25 addresses or the contents of an electronic communication;

26 (2) "Internet" means the combination of computer systems or networks
27 that make up the international network for interactive communications services,
28 including remote logins, file transfers, electronic mail, and newsgroups;

29 (3) "private person" means a person that is not a governmental agency.

30 **Sec. 45.48.880. Short title.** AS 45.48.800 - 45.48.880 may be cited as the
31 Geolocation Information Protection Act.

- 1 * **Sec. 2.** AS 45.50.471(b) is amended by adding a new paragraph to read:
- 2 (58) violating AS 45.48.800 - 45.48.880 (geolocation information
- 3 protection).