

116TH CONGRESS
1ST SESSION

H. R. 1818

To amend the Communications Act of 1934 to require providers of a covered service to provide location information concerning the telecommunications device of a user of such service to an investigative or law enforcement officer or an employee or other agent of a public safety answering point in an emergency situation involving risk of death or serious physical harm or in order to respond to the user’s call for emergency services.

IN THE HOUSE OF REPRESENTATIVES

MARCH 18, 2019

Mr. ESTES (for himself and Ms. DAVIDS of Kansas) introduced the following bill; which was referred to the Committee on Energy and Commerce

A BILL

To amend the Communications Act of 1934 to require providers of a covered service to provide location information concerning the telecommunications device of a user of such service to an investigative or law enforcement officer or an employee or other agent of a public safety answering point in an emergency situation involving risk of death or serious physical harm or in order to respond to the user’s call for emergency services.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Kelsey Smith Act”.

1 **SEC. 2. REQUIRED EMERGENCY DISCLOSURE OF LOCATION**
2 **INFORMATION TO LAW ENFORCEMENT OR**
3 **PUBLIC SAFETY ANSWERING POINT.**

4 Section 222 of the Communications Act of 1934 (47
5 U.S.C. 222) is amended—

6 (1) in subsection (d)—

7 (A) in paragraph (4), by redesignating
8 subparagraphs (A), (B), and (C) as clauses (i),
9 (ii), and (iii), respectively, and adjusting the
10 margins accordingly;

11 (B) by redesignating paragraphs (1)
12 through (4) as subparagraphs (A) through (D),
13 respectively, and adjusting the margins accord-
14 ingly;

15 (C) in the matter preceding subparagraph
16 (A), as so redesignated, by striking “Nothing in
17 this section” and inserting the following:

18 “(1) PERMITTED DISCLOSURES.—Nothing in
19 this section”; and

20 (D) by adding at the end the following:

21 “(2) REQUIRED EMERGENCY DISCLOSURE OF
22 LOCATION INFORMATION TO LAW ENFORCEMENT OR
23 PUBLIC SAFETY ANSWERING POINT.—

24 “(A) LOCATION INFORMATION RE-
25 QUESTS.—Notwithstanding subsections (a), (b),
26 and (c), at the request of an investigative or

1 law enforcement officer or an employee or other
2 agent of a public safety answering point acting
3 on behalf of such an officer, who is acting in
4 the course of the official duties of the officer or
5 agent, a provider of a covered service shall pro-
6 vide to the officer or agent the available loca-
7 tion information of a telecommunications device
8 without delay if the officer or agent asserts—

9 “(i) that the device was used to place
10 a 9–1–1 call requesting emergency assist-
11 ance during the preceding 48-hour period;
12 or

13 “(ii) reasonable suspicion that the de-
14 vice is in the possession of an individual
15 who is involved in an emergency situation
16 that involves the risk of death or serious
17 physical harm.

18 “(B) RECORDS OF DISCLOSED RECORDS.—

19 If an investigative or law enforcement officer,
20 or an employee or other agent of a public safety
21 answering point acting on behalf of such an of-
22 ficer, submits a request for location information
23 to a provider of a covered service under sub-
24 paragraph (A), the investigative or law enforce-
25 ment agency employing the officer shall main-

1 tain a record of the request that includes each
2 of the following:

3 “(i) The name of the officer or agent
4 making the request (and, in the case of a
5 request made by an agent, the name of the
6 officer on whose behalf the agent is act-
7 ing).

8 “(ii) A description of the request that
9 explains the need for disclosure of location
10 information.

11 “(iii) A declaration that disclosure of
12 location information is needed based on the
13 conditions described in clause (i) or (ii) of
14 subparagraph (A).

15 “(C) HOLD HARMLESS.—No cause of ac-
16 tion shall lie in any court, nor shall any civil or
17 administrative proceeding be commenced by any
18 person or entity, against a provider of a covered
19 service, or its directors, officers, employees,
20 agents, or vendors, for providing location infor-
21 mation or assistance in accordance with sub-
22 paragraph (A) and any regulations promulgated
23 under this paragraph.

24 “(D) RELATIONSHIP TO STATE LAW.—

1 “(i) IN GENERAL.—Nothing in this
2 section exempts a telecommunications car-
3 rier or a provider of a covered service from
4 complying, in a circumstance described in
5 clause (ii), with any applicable State law
6 that requires the carrier or provider to pro-
7 vide location information of a telecommuni-
8 cations device to an investigative or law en-
9 forcement officer or an employee or other
10 agent of a public safety answering point
11 acting on behalf of such an officer in re-
12 sponse to a request by the officer or agent.

13 “(ii) APPLICABILITY.—A circumstance
14 described in this clause is a circumstance
15 in which the officer or agent—

16 “(I) makes the request while act-
17 ing in the course of the official duties
18 of the officer or agent; and

19 “(II) asserts that the request is
20 made for the purpose of responding
21 to—

22 “(aa) a call for emergency
23 services; or

1 “(bb) an emergency situa-
2 tion that involves the risk of
3 death or serious physical harm.”;

4 (2) in subsection (f)(1), by striking “subsection
5 (d)(4)” and inserting “subsection (d)(1)(D)”; and

6 (3) in subsection (h), by adding at the end the
7 following:

8 “(8) COVERED SERVICE.—The term ‘covered
9 service’ means—

10 “(A) a commercial mobile service (as de-
11 fined in section 332(d)); or

12 “(B) an IP-enabled voice service (as de-
13 fined in section 7 of the Wireless Communica-
14 tions and Public Safety Act of 1999 (47 U.S.C.
15 615b)).

16 “(9) INVESTIGATIVE OR LAW ENFORCEMENT
17 OFFICER.—The term ‘investigative or law enforce-
18 ment officer’ has the meaning given the term ‘Inves-
19 tigative or law enforcement officer’ in section 2510
20 of title 18, United States Code.”.

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