

ASSEMBLY BILL NO. 313—ASSEMBLYMEN WHEELER, OSCARSON,  
HAMBRICK; ELLISON, KRAMER, MARCHANT AND PICKARD

MARCH 17, 2017

Referred to Committee on Commerce and Labor

SUMMARY—Enacts provisions governing geolocation information. (BDR 52-886)

FISCAL NOTE: Effect on Local Government: Increases or Newly Provides for Term of Imprisonment in County or City Jail or Detention Facility.  
Effect on the State: Yes.

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EXPLANATION – Matter in *bolded italics* is new; matter between brackets ~~omitted material~~ is material to be omitted.

AN ACT relating to privacy; prohibiting a person from collecting, using, storing or disclosing geolocation information from a location-based application on an electronic communication device unless certain conditions are met; authorizing a private right of action; providing that such collection, use, storage or disclosure constitutes a deceptive trade practice; providing penalties; and providing other matters properly relating thereto.

**Legislative Counsel’s Digest:**

1 This bill enacts provisions governing the collection, use, storage and disclosure  
2 of geolocation information from a location-based application on an electronic  
3 communication device.

4 **Section 6** of this bill prohibits a person from collecting, using, storing or  
5 disclosing geolocation information from a location-based application on another  
6 person’s electronic communication device unless the other person has given his or  
7 her express consent after certain disclosures are made. **Section 6** authorizes a  
8 person to collect, use, store or disclose geolocation information from a location-  
9 based application without express and informed consent to allow a parent or  
10 guardian to locate his or her child, to allow a guardian to locate his or her ward and  
11 for the provision of fire, medical, public safety or other emergency services.  
12 **Section 5** of this bill exempts certain health care providers, financial institutions  
13 and telecommunication providers from the requirements of this bill.

14 **Section 7** of this bill authorizes a person aggrieved by a violation of the  
15 provisions of this bill to bring a civil action to recover certain damages or other  
16 legal or equitable relief. **Section 7** further requires the court to award costs and  
17 reasonable attorney’s fees to a person who brings such an action and prevails.



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18 **Section 8** of this bill makes a violation of the provisions of this bill a deceptive  
19 trade practice under provisions of existing law. **Section 9** provides that any  
20 provision of an agreement that seeks to modify or waive the provisions of this bill  
21 is void and unenforceable. **Section 10** of this bill provides that the provisions of this  
22 bill apply only to a location-based application created or modified after the  
23 effective date of this bill, which is October 1, 2017.

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THE PEOPLE OF THE STATE OF NEVADA, REPRESENTED IN  
SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 **Section 1.** Chapter 597 of NRS is hereby amended by adding  
2 thereto the provisions set forth as sections 2 to 9, inclusive, of this  
3 act.

4 **Sec. 2.** *As used in sections 2 to 9, inclusive, of this act, unless*  
5 *the context otherwise requires, the words and terms defined in*  
6 *sections 3 and 4 of this act have the meanings ascribed to them in*  
7 *those sections.*

8 **Sec. 3.** *“Geolocation information” means information that:*

9 1. *Is not the contents of a communication;*

10 2. *Is generated by or derived from, in whole or in part, the*  
11 *operation of an electronic communication device, including,*  
12 *without limitation, a cellular telephone, personal digital assistant*  
13 *or laptop computer; and*

14 3. *Is sufficient to determine the geographic location of the*  
15 *device.*

16 *↳ The term does not include an Internet protocol address.*

17 **Sec. 4.** *“Location-based application” means a software*  
18 *application that collects, uses or stores geolocation information.*

19 **Sec. 5.** 1. *Sections 2 to 9, inclusive, of this act do not apply*  
20 *to:*

21 (a) *A health care provider or other person subject to the*  
22 *provisions of the Health Insurance Portability and Accountability*  
23 *Act of 1996, Public Law 104-191, as amended, and any*  
24 *regulations adopted pursuant thereto.*

25 (b) *A financial institution or affiliate of a financial institution*  
26 *that is subject to the privacy and security provisions of the*  
27 *Gramm-Leach-Bliley Act, 15 U.S.C. §§ 6801 et seq.*

28 (c) *A telecommunication provider.*

29 2. *As used in this section, “telecommunication provider” has*  
30 *the meaning ascribed to it in NRS 711.131.*

31 **Sec. 6.** 1. *Except as otherwise provided in subsection 2 and*  
32 *section 5 of this act, a person shall not collect, use, store or*  
33 *disclose geolocation information from a location-based*  
34 *application on the electronic communication device of another*  
35 *person unless the person collecting, using, storing or disclosing*



1 *the geolocation information obtains the express consent of the*  
2 *other person after informing the other person in writing:*

3 *(a) That his or her geolocation information will be collected,*  
4 *used, stored or disclosed;*

5 *(b) Of the specific purposes for which his or her geolocation*  
6 *information will be collected, used, stored or disclosed; and*

7 *(c) Of a hyperlink or comparably easily accessible means to*  
8 *access the information specified in paragraphs (a) and (b).*

9 *2. A person may collect, use, store or disclose geolocation*  
10 *information from a location-based application on an electronic*  
11 *communication device of another person without express and*  
12 *informed consent from the other person if the collection, use,*  
13 *storage or disclosure is:*

14 *(a) To allow a parent or guardian to locate his or her child if*  
15 *the child is under 18 years of age and is not emancipated;*

16 *(b) To allow a guardian to locate his or her ward; or*

17 *(c) For the provision of fire, medical, public safety or other*  
18 *emergency services.*

19 **Sec. 7. 1.** *A person aggrieved by a violation of the*  
20 *provisions of sections 2 to 9, inclusive, of this act may bring a civil*  
21 *action against a person who violated those provisions to recover*  
22 *liquidated damages of \$1,000 or actual damages, whichever is*  
23 *greater, and any other remedy available under the law or in equity*  
24 *appropriate to remedy any violation of the provisions of sections 2*  
25 *to 9, inclusive, of this act.*

26 *2. If the person who brought an action pursuant to this*  
27 *section prevails in such an action, the court shall award the*  
28 *person costs and reasonable attorney's fees.*

29 **Sec. 8. 1.** *A violation of sections 2 to 9, inclusive, of this act*  
30 *constitutes a deceptive trade practice for the purposes of NRS*  
31 *598.0903 to 598.0999, inclusive.*

32 *2. In an action brought by the Attorney General pursuant to*  
33 *NRS 598.0903 to 598.0999, inclusive, to enforce the provisions of*  
34 *sections 2 to 9, inclusive, of this act the court may order the award*  
35 *of treble damages to any person aggrieved by a violation of the*  
36 *provisions of sections 2 to 9, inclusive, of this act.*

37 **Sec. 9.** *Any condition, stipulation or provision in a contract*  
38 *that seeks to waive or modify a right, obligation or liability set*  
39 *forth in the provisions of sections 2 to 9, inclusive, of this act or*  
40 *that in any way conflicts with the provisions of sections 2 to 9,*  
41 *inclusive, of this act is against public policy and is void and*  
42 *unenforceable.*



1     **Sec. 10.** The provisions of this act apply only to a location-  
2 based application, as defined in section 4 of this act, which is  
3 created or modified on or after October 1, 2017.

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