

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

SECOND SESSION

**LEGISLATIVE BILL 735**

Introduced by Gay, 14.

Read first time January 06, 2010

Committee: Transportation and Telecommunications

A BILL

- 1 FOR AN ACT relating to telecommunications; to adopt the Kelsey
- 2                   Smith Act.
- 3 Be it enacted by the people of the State of Nebraska,

1           Section 1. Sections 1 to 7 of this act shall be known and  
2 may be cited as the Kelsey Smith Act.

3           Sec. 2. For purposes of the Kelsey Smith Act:

4           (1) Call location information means the best available  
5 location information, including, but not limited to, information  
6 obtained using historical cellular site information or a mobile  
7 locator tool;

8           (2) Law enforcement agency means an agency or department  
9 of this state or of any political subdivision of this state that  
10 obtains, serves, and enforces arrest warrants or that conducts or  
11 engages in prosecutions for violations of the law;

12           (3) Wireless carrier has the same meaning as in section  
13 86-456; and

14           (4) Wireless communication device means any wireless  
15 electronic communication device that provides for voice or data  
16 communication between two or more parties, including a mobile or  
17 cellular telephone.

18           Sec. 3. Upon request of any law enforcement agency, a  
19 wireless carrier shall provide call location information concerning  
20 the wireless communication device of a user as soon as practicable  
21 following receipt of the request to facilitate the response to  
22 a call for emergency services or in an emergency situation that  
23 involves the risk or threat of death or serious physical harm.

24           Sec. 4. No cause of action shall lie in any court against  
25 any wireless carrier or its officers, employees, agents, or assigns

1 for providing call location information while acting in good faith  
2 and in accordance with the provisions of the Kelsey Smith Act. All  
3 wireless carriers shall be held harmless from any and all claims,  
4 damages, costs, and expenses, including attorney's fees, arising  
5 from or related to the release of call location information.

6           Sec. 5. (1) Any wireless carrier authorized to do  
7 business in this state or submitting to the jurisdiction of this  
8 state shall provide updated contact information to the Nebraska  
9 State Patrol on a semiannual basis or within three working days  
10 after a change in such information that would render previous  
11 contact information invalid or inefficient for use under the Kelsey  
12 Smith Act.

13           (2) The Nebraska State Patrol shall collect and maintain  
14 a register of contact information for all such wireless carriers.

15           Sec. 6. The Nebraska State Patrol shall provide the  
16 information collected pursuant to section 5 of this act to all law  
17 enforcement agencies in this state on a quarterly basis or as soon  
18 as practicable if a change in such information has occurred.

19           Sec. 7. Notwithstanding any other provision of law to the  
20 contrary, nothing in the Kelsey Smith Act shall prohibit a wireless  
21 carrier from establishing protocols by which the wireless carrier  
22 could voluntarily disclose call location information.