

COMMITTEE SUBSTITUTE

for

H. B. 2046

(BY DELEGATE(S) PERRY AND P. SMITH)

(Originating in the Committee on the Judiciary)

[March 13, 2013]

A Bill to amend the Code of West Virginia, 1931, as amended, relating to requiring wireless telecommunications carriers to provide location information to law-enforcement agencies in emergencies; permitting wireless communications carriers to establish protocols for disclosure of location information in an emergency; limiting liability of wireless communications carriers when acting in good faith; requiring wireless telecommunications carriers and resellers to provide emergency contact information; requiring the West Virginia State Police to maintain emergency contact database; and, granting rule-making authority.

Be it enacted by the Legislature of West Virginia:

That the Code of West Virginia, 1931, as amended, be amended by adding thereto a new section, designated §15-3-10, to read as follows:

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 3. COMMUNICATION SYSTEMS FOR POLICE PURPOSES.

§15-3-10. Disclosure of location information; emergency situations.

1 (a) Upon request of a law-enforcement agency, a wireless
2 telecommunications carrier shall provide location information
3 concerning the telecommunications device of the user to the
4 requesting law-enforcement agency in order to respond to a call
5 for emergency services or in an emergency situation that
6 involves the risk of death or serious physical harm.

7 (b) Notwithstanding any other provision of law to the
8 contrary, nothing in this section prohibits a wireless telecommu-
9 nications carrier from establishing protocols to respond to a law
10 enforcement agency request for location information in an
11 emergency situation or a call for emergency services.

12 (c) No cause of action shall lie in any court against any
13 wireless telecommunications carrier, its officers, employees,
14 agents or other specified persons for providing location informa-

15 tion while acting in good faith and in accordance with the
16 provisions of this section.

17 (d) (1) All wireless telecommunications carriers registered
18 to do business in the State of West Virginia or submitting to the
19 jurisdiction thereof and all resellers of wireless telecommunica-
20 tions services shall submit their emergency contact information
21 to the West Virginia State Police in order to facilitate requests
22 from a law-enforcement agency for location information in
23 accordance with this section. This contact information must be
24 submitted annually by June 15th or immediately upon any
25 change in contact information.

26 (2) The State Police shall maintain a database containing
27 emergency contact information for all wireless telecommunica-
28 tions carriers registered to do business in the State of West
29 Virginia and shall make the information immediately available
30 upon request to all public safety answer points in the state.

31 (e) The Superintendent of the West Virginia State Police
32 shall prescribe and promulgate reasonable rules to fulfill the
33 requirements of this section no later than July 1, 2014.

34 (f) This section shall be known and may be cited as the
35 “Kelsey Smith Act.”

NOTE: The purpose of this section is to require wireless telecommunications companies to release location information of a missing person's cell phone in a timely manner to law enforcement in emergency situations, rather than requiring a judge's order. The bill limits a company's liability. The bill also grants rule-making authority.

This section is new; therefore, it has been completely underscored.