



May 15, 2017

Illinois State Legislature
Springfield, IL

Re: HB 3449

Dear Mr. Chairman and Senators,

Thank you for the opportunity to speak on behalf of the Center for Democracy & Technology this morning. CDT is a nonpartisan, nonprofit technology policy advocacy organization dedicated to promoting digital privacy, free expression, and individual liberty. CDT works to develop and promote balanced public policy that encourages new technology while empowering consumers to make informed choices about sharing their personal data online.

CDT supports the passage of HB 3449 for this very reason: it requires companies to ask for permission before they use an individual's precise geolocation information. We believe that HB 3449 is common sense legislation that protects consumers while avoiding overly burdensome or costly compliance requirements for companies.

Geolocation information is sensitive and should be protected

Geolocation information is highly sensitive; the constant stream of geolocation information gathered and relayed by smartphone apps, for example, provides a running log of where an individual goes every second of the day when they have their phone with them. Personal devices and the apps they pair with have become a vast reservoir of data about individuals, recording information such as purchases, behaviors, and habits. Simultaneously, location tracking technologies have become increasingly sophisticated, with GPS and other tracking software able to gather more and more granular information about a device's location. Unfortunately, along with this growth in collection and complexity, we have been witnessing a decrease in transparency about what is being collected and with whom that information is being shared.

Consumers have long communicated concerns about the privacy of their personal information, but these concerns have mostly gone unheeded. A 2015 survey from Skyhook found that 83% of app users believed that location was crucial to their app experiences, but nearly 40% of them are hesitant to share their location.¹ HB 3449 is responsive to consumers' desire to have some control over their data, by

¹ Angela Diaco, Skyhook Research Reveals Huge, Untapped Opportunity for Location Permissions in Apps, November 6, 2015, <http://blog.skyhookwireless.com/company/new-skyhook-research-reveals-huge-untapped-opportunity-for-location-services-in-apps>.



giving them notice when a company wishes to use their location data and allowing them to decide if they are comfortable with the sharing. This bill would give the citizens of Illinois something few Americans ever receive: knowledge about what's being done with their personal information and the power to choose when to share it.

The bill creates a set of requirements that protects consumers without unduly burdening business growth

HB 3449 would give the Illinois Attorney General the authority to seek action against companies that attempt to deceptively acquire and sell consumers' precise geolocation information without their consent. Requiring affirmative express consent, also known as an "opt-in" regime, simply requires that app users consent to having their information collected before it starts happening. As it is currently written, the law would require a company to obtain express affirmative consent only once, at the start of geolocation data collection of geolocation data; they are only required to obtain permission again if the company makes a substantial change to the way a person's geolocation data is collected, stored, or used. We believe this is a reasonable approach that balances the interests of companies' to have usable products with a consumer's right to know what is being done with their data.

While consumers should be given enough information to feel confident consenting to data usage, flooding them with unnecessary notices risks "notice fatigue," causing the person to ignore the notice or quit the app altogether. By only requiring notice once before the start of information collection and then again only when there is a material change to the collection practices, HB 3449 avoids such notice fatigue and provides useable tools for consumers and clear requirements for companies. In absence of federal laws protecting the privacy of a person's geolocation data, it falls to Illinois state legislators to enact reasonable guidelines that require proper notice and consent for its use.

Thank you very much for your time this morning. I would be happy to answer any questions you may have.

Sincerely,

Vijay Kasschau
Georgetown Privacy and Law Fellow
Center for Democracy & Technology