

## Badly Needed GPS Privacy Legislation Being Proposed in Congress

September 21, 2011 – If you are like me, you’re in love with GPS. It isn’t perfect. When you get into the hills, it’s common to hear, “Lost satellite reception”. And then there is the ever popular, “Recalculating”. But for the most part, when you get your first GPS unit it is almost impossible to imagine going back to traditional maps. Unfortunately, both the government and some large corporations also like GPS. But they’re not using it to find the nearest McDonalds. They’re using it to find the people who are using GPS! But now there is some badly needed privacy legislation being proposed in Congress that would place some curbs on that sort of thing. As with GPS itself, the legislation isn’t perfect, but it is a far cry better than anything we currently have.

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There is a raging debate going on in the courts right now. Does the government have the right to place a GPS unit on your car to pinpoint your location without a warrant? It is a question that is likely to end up with the Supreme Court. And if you think that the final decision is likely to come down on the side of citizens, such an outcome is nowhere close to being assured. The Supreme Court has repeatedly held that anytime you are out in public, you have no reasonable expectation of privacy.

But it is not just the court case that worries privacy advocates. GPS units are now installed in all new cell phones sold in the United States. More and more frequently, law enforcement is asking cellular providers to turn over information on the whereabouts of specific customers. And those requests are seldomly accompanied by a warrant.

Now, Senator Ron Wyden (D-OR) and Rep. Jason Chaffetz (R-UT) are proposing a new law that would require law enforcement obtain a warrant from a judge before gaining access to GPS information; either through a cell phone or other GPS devices. The law is called the Geolocation Privacy and Surveillance Act, or the GPS Act.

The law would also impact corporations and their use of GPS. Given the announcement this week by GM's On Star that they would continue to track the location of vehicles even after On Star service had been cancelled, the new law is badly needed.

Corporations that use GPS would have to develop clearly stated policies about their use of GPS and they would not be able to sell or share the data they collect without the permission of the person being tracked.

More importantly, the law creates legal penalties for anyone who uses GPS to clandestinely track the whereabouts of a person unless the tracking is conducted in compliance with the law.

ACCESS would suggest several additions to the GPS Act. Specifically, individual consumers should be able to insist that companies using GPS not maintain any long term records on their movements unless they opt-in to a program allowing such maintenance. And no company should be able to refuse to do business with, or charge higher rates to consumers who ask not to be tracked. Finally, consumers should have the ability to turn off any GPS tracking, whether it is in their phone or built into their car, with the flip of a switch. And the companies doing the tracking should not legally or technically have the ability to override a consumer who has physically turned off tracking or cancelled their service.

With all of that said, the GPS Act appears to be a big improvement over current law.

by Jim Malmberg

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