



Committees: Senate Committee on Judiciary  
Hearing Date/Time: Thursday, March 28, 2019, 9:45 a.m.  
Place: Conference Room 016  
Re: Testimony of the ACLU of Hawai'i in Support of H.B. 702, H.D. 1, S.D. 1, Relating to Satellite Navigation Technology

Dear Chair Rhoads, Vice Chair Wakai, and members of the Committee on Judiciary:

The American Civil Liberties Union of Hawai'i ("ACLU of Hawai'i") writes **in support of H.B. 702, H.D. 1, S.D. 1**, which prohibits the sale or offering for sale of location data collected using satellite navigation technology without the explicit consent of the individual who is the primary user of the satellite navigation technology-equipped device.

Hawai'i has a strong history of protecting an individual's right to privacy. Indeed, article 1, section 6 of our state constitution provides that "[t]he right of the people to privacy is recognized and shall not be infringed without the showing of a compelling state interest." But the tracking of people's location constitutes a significant invasion of privacy. Tracking data can reveal many things about our lives, such as what friends, doctors, protests, meetings, political activities, support groups, or religious institutions we visit. And it is this personal information that companies share about us when they sell our data. H.B. 702, H.D. 1, S.D. 1 protects people's privacy by prohibiting the sale or offering for sale of this information.

To underscore the urgency of this issue, we refer you to a December 10, 2018 New York Times article entitled, "Your apps know where you were last night, and they're not keeping it secret." As the article notes:

The millions of dots on the map trace highways, side streets and bike trails — each one following the path of an anonymous cellphone user.

One path tracks someone from a home outside Newark to a nearby Planned Parenthood, remaining there for more than an hour. Another represents a person who travels with the mayor of New York during the day and returns to Long Island at night.

American Civil Liberties Union of Hawai'i  
P.O. Box 3410  
Honolulu, Hawai'i 96801  
T: 808.522.5900  
F: 808.522.5909  
E: [office@acluHawai'i.org](mailto:office@acluHawai'i.org)  
[www.acluHawai'i.org](http://www.acluHawai'i.org)

Yet another leaves a house in upstate New York at 7 a.m. and travels to a middle school 14 miles away, staying until late afternoon each school day. Only one person makes that trip: Lisa Magrin, a 46-year-old math teacher. Her smartphone goes with her.

**An app on the device gathered her location information, which was then sold without her knowledge.** It recorded her whereabouts as often as every two seconds, according to a database of more than a million phones in the New York area that was reviewed by The New York Times. While Ms. Magrin's identity was not disclosed in those records, The Times was able to easily connect her to that dot.

The Times reported that in about four months' of data they reviewed, Ms. Magrin's location was recorded over 8,600 times – on average, once every 21 minutes.

This type of intrusion is why we especially support the provision of H.B. 702, H.D. 1, S.D 1 that notes information cannot be sold without the *explicit* consent of the individual. This provision clarifies that broad contracts of adhesion that are often part of cell phone contracts – often referred to as “user agreements” – which are rarely read by consumers, are insufficient to secure the level of “explicit” consumer permission that is required to share their location data pursuant to this bill.

We urge the Committee to support this measure. Thank you for the opportunity to testify.

Sincerely,



Mandy Fernandes  
Policy Director  
ACLU of Hawai'i

*The mission of the ACLU of Hawai'i is to protect the fundamental freedoms enshrined in the U.S. and State Constitutions. The ACLU of Hawai'i fulfills this through legislative, litigation, and public education programs statewide. The ACLU of Hawai'i is a non-partisan and private non-profit organization that provides its services at no cost to the public and does not accept government funds. The ACLU of Hawai'i has been serving Hawai'i for 50 years.*

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Honolulu, Hawai'i 96801  
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F: 808.522.5909  
E: [office@acluHawai'i.org](mailto:office@acluHawai'i.org)  
[www.acluHawai'i.org](http://www.acluHawai'i.org)