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COMMITTEE ASSIGNMENTS
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March 7, 2013

To: Senate Judiciary Committee
Re: HB 2034

Mr. Chairman, Committee members. I support HB 2034 and ask you to add language related to HB 2026.

HB 2026 was requested by Kansas law enforcement officers to permit them to identify the purchasers of pre-paid communications devices and SIM cards that are found in connection with crimes. The bill as introduced required a large amount of information to be collected and provided to the KBI. That resulted in a large fiscal note related to the KBI developing a database and handling written forms from retailers.

After listening to the proponents and opponent of the bill, the KBI, Lawrence Police Detectives, a Sprint representative, and I revised and greatly simplified the bill. The opponent did not object to the need for law enforcement officers to access the information, but to the amount of effort store employees would be required to invest in compiling the information requested and the cost to the KBI to process it.

Attached is a balloon that addresses the concerns of the parties:

- a) Purchasers of pre-paid (non-service contract) mobile devices and SIM cards will have the following information recorded by the seller: name, address, and one of the following: Mobile Equipment identifier (MEID), International Mobile Station Equipment Identity (IMEI), Electronic Serial Number (ESN), or the Activation Authorization Number (AAN). This information can be obtained from a driver's license and the unique device identification information can be obtained from the device's packaging, without breaking the packaging seal and voiding any warranty.
- b) That information will be provided monthly to the KBI in an electronic format. This will substantially reduce the fiscal note provided by the KBI.
- c) Sellers of such pre-paid mobile devices and SIM cards may charge customers up to \$2 per device or card to cover costs associated with reporting the information to the KBI. Charging the

authorized fee is voluntary and a seller can choose not to increase their price, but it is a recognition that retailers incur costs associated with collecting sales taxes, selling lottery tickets, and providing information to law enforcement officers.

- d) The proposed amendment's effective date is January 1, 2014, reflecting that retailers will need time to train their employees and it further diminishes the KBI costs.

Individual FBI agents have written their personal support of the effort, but the agency cannot officially comment until the Congressional Liaison Office completes its review (a 3-5 month process). Similarly, KBI agents have indicated that this would be an invaluable tool, their concern is the state funding support levels.

I am committed to finding the money for the KBI and hope that the FBI ultimately overcomes their bureaucratic inertia.

I appreciate your consideration of the proposed amendment. A representative of the Lawrence Police Department will be present at the hearing to respond to questions about the need for the amendment.

Thank you for your attention and consideration. I will respond to questions at the appropriate time.

1 tracking device is not possible, such tracking device shall be deactivated
2 and shall not be reactivated without an additional warrant or extension of
3 the original warrant and the search warrant return shall state the reasons
4 removal has not been completed.

5 (B) A tracking device which has been deactivated may be accessed
6 after the authorized warrant has expired solely for the purpose of
7 collecting or retrieving tracking data obtained during the period specified
8 by the search warrant.

9 (c) As used in this section:

10 (1) "Deactivate" means to discontinue the ability of a tracking device
11 to determine or track the position or movement of a person or object; and

12 (2) "tracking data" and "tracking device" have the same meanings as
13 defined in K.S.A. 22-2502, and amendments thereto.

14 Sec. 4. K.S.A. 22-2503 and 22-2506 and K.S.A. 2012 Supp. 22-2502
15 are hereby repealed.

16 Sec. 5. This act shall take effect and be in force from and after its
17 publication in the statute book.

← Insert Attachment

ATTACHMENT

New Sec. 4. On and after January 1, 2014:

(a) The Kansas bureau of investigation shall establish a mobile communications devices identification system which shall be a central repository of information received by sellers in this state relating to the purchase of pre-paid mobile devices or SIM cards. Such information shall be maintained for the purpose of providing information to law enforcement.

(b) (1) All sellers in this state shall, prior to the completion of any sale of a pre-paid mobile device or SIM card to a purchaser: (A) Require a purchaser to provide a government issued identification card; and (B) record the purchaser's full name, complete home address and the mobile equipment identifier or the international mobile station equipment identity of the pre-paid mobile device or SIM card to be purchased, or, if neither are available, the activation code for the pre-paid mobile device or SIM card to be purchased.

(2) The seller shall report the record of the sale of a pre-paid mobile device or SIM card to the Kansas bureau of investigation not later than 30 days after the date of such sale. Such reports shall be made in accordance with rules and regulations adopted pursuant to this section.

(c) The information in the mobile communications devices identification system established pursuant to this section shall be available to all law enforcement officers in this state which have a need for information relating to prepaid mobile devices or SIM cards, in accordance with rules and regulations adopted pursuant to this section.

(d) The director of the Kansas bureau of investigation shall adopt rules and regulations prescribing:

(1) Procedures and forms for reports made to the mobile communications devices identification system established pursuant to this section; and

(2) procedures for disseminating information maintained in the mobile communications devices identification system to law enforcement agencies.

(e) Any seller that willfully fails to make any report required by this section shall be liable to the state for the payment of a civil penalty, recoverable in an action brought by the attorney general, in an amount not exceeding \$50 for each failure to report. Any civil penalty recovered under this subsection shall be paid into the state general fund.

(f) A Seller may charge up to a \$2 administrative fee per retail transaction for each pre-paid mobile device or SIM card.

(g) As used in this section: (1) "International mobile station equipment identity" means an equipment identification number, similar to a serial number, used to identify a mobile station;

(2) "mobile equipment identifier" means a globally unique number for a physical piece of mobile station equipment;

(3) "mobile station" means all user equipment and software needed for communication with a mobile network;

(4) "pre-paid mobile device" means any cellular phone or similar wireless communication device for which the mobile device user purchases a set allotment of wireless communication services provided by a wireless carrier;

(5) "seller" means any business subject to the provisions of article 36 of chapter 79 of the Kansas Statutes Annotated, and amendments thereto, that sells pre-paid mobile devices or SIM cards;

(6) "SIM card" means a subscriber identity module or functionally equivalent data storage device; and

(7) "wireless carrier" has the meaning provided in 47 U.S.C. § 615b(4), as in effect on the effective date of this act.