**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING SECTION 17‑13‑180 SO AS TO PROVIDE THAT A SOUTH CAROLINA BUSINESS MUST TREAT A SUBPOENA, COURT ORDER, OR WARRANT ISSUED BY ANOTHER STATE AS IF THE SUBPOENA, COURT ORDER, OR WARRANT WAS ISSUED BY A SOUTH CAROLINA COURT; AND BY ADDING SECTION 17‑13‑190 SO AS TO PROVIDE FOR THE ISSUANCE, EXECUTION, AND RETURN OF SEARCH WARRANTS FOR ELECTRONIC DATA OR INFORMATION.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapter 13, Title 17 of the 1976 Code is amended by adding:

“Section 17‑13‑180. (A) For the purposes of this section a ‘South Carolina business’ means a corporation, general partnership, limited partnership, joint venture, trust, proprietorship, or any other similar entity or organization that:

(1) is organized pursuant to the laws of South Carolina;

(2) has its domicile or principal place of business in South Carolina;

(3) is a foreign business that stores the electronic data subject to a subpoena, court order, or warrant within South Carolina; or

(4) is a foreign business doing business in the State of South Carolina.

(B) A South Carolina business, when served with a subpoena, court order, or warrant issued by a court of another state to produce records that would reveal the identity of customers using the service, data stored by or on behalf of the customers, the customer’s usage of the services, or the recipients or destinations of communications sent to or received by customers, shall produce those records as if the subpoena, court order, or warrant had been issued by a South Carolina court.

Section 17‑13‑190. A circuit court judge may issue a search warrant to search for and seize electronic data or information from any business regardless of where the data or information is stored so long as the business operates and conducts business in or provides services in South Carolina.

A warrant issued must be issued only upon affidavit sworn to before the circuit court judge establishing the grounds for the warrant. If the circuit court judge is satisfied that the grounds for the application exist or that there is probable cause to believe that they exist, he shall issue a warrant identifying the property and naming or describing the person or place to be searched. Such warrants must be directed to any peace officer with jurisdiction in the county where the warrant is issued, including members of the South Carolina Law Enforcement Division, and are returnable to a magistrate judge for the county where issued. Service also may be secured by service upon the registered agent for the business.

Any warrant issued must be executed and return made only within ten days after it is dated. The officer executing the warrant shall make and deliver a signed inventory of any articles seized by virtue of the warrant, which must be delivered to the judicial officer to whom the return is to be made, and if a copy of the inventory is demanded by the person from whose person or premises the property is taken, a copy of the inventory must be delivered to him.

Warrants issued pursuant to this section may be accompanied by a Preclusion of Notice Order that complies with the provisions of 18 U.S.C. Section 2705(b).

Records seized pursuant to a search warrant issued pursuant to this section are admissible at trial when accompanied by a certification of a records custodian or other qualified witness that the seized records are a true and accurate reflection of the stored electronic data or information. The certification must be signed in a manner that would subject the maker of the certification to a criminal penalty in the jurisdiction where the certification is signed if it is falsely made. Before the trial or hearing, the proponent must give an adverse party reasonable written notice of the intent to offer the record and must make the record and certification available for inspection to provide the party with a fair opportunity to challenge them.”

SECTION 2. This act takes effect upon approval by the Governor.

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