

**PROPERTY TRACKING AMENDMENTS**

2005 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Paul Ray**

Senate Sponsor: David L. Thomas

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**LONG TITLE**

**General Description:**

This bill amends the Criminal Code to clarify that individuals other than law enforcement officers may attach mobile tracking devices to their own property.

**Highlighted Provisions:**

This bill:

- ▶ provides that any person, whether or not a law enforcement officer, is entitled to install and use a mobile tracking device on any property belonging to or under the lawful control of that person.

**Monies Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**77-23a-15.5**, as enacted by Chapter 201, Laws of Utah 1994

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*Be it enacted by the Legislature of the state of Utah:*

Section 1. Section **77-23a-15.5** is amended to read:

**77-23a-15.5. Mobile tracking device authorization.**

(1) As used in this section, "mobile tracking device" means an electronic or mechanical device emitting only an electronic locator signal which permits the tracking of the movement of a person or an object.

(2) An investigative or law enforcement officer may make application to a district judge for an order authorizing or approving the installation and use of a mobile tracking device. The application must be in writing and signed by the investigative or law enforcement officer and sworn to or affirmed by that officer before the district judge.

(3) An application under Subsection (2) must include:

(a) a statement of the identity of the applicant and the identity of the law enforcement agency conducting the investigation;

(b) a certification by the applicant that the information likely to be obtained is relevant to an ongoing criminal investigation being conducted by the investigating agency;

(c) a statement of the offense to which the information likely to be obtained relates;

(d) a statement whether it may be necessary to use and monitor the mobile tracking device outside the jurisdiction of the court from which authorization is being sought; and

(e) a statement identifying the vehicle, container, or item to which, in which, or on which the mobile tracking device is to be attached or placed and, if known to the applicant, a statement identifying the owner or possessor of that vehicle, container, or item.

(4) Upon application made as provided under Subsection (3), the court, if it finds that the certification and statement required by Subsection (3) have been made in the application, may enter an ex parte order authorizing the installation and use of a mobile tracking device. The order may authorize the use of the device within the jurisdiction of the court and outside that jurisdiction but within the state [~~of Utah~~] if the device is installed within the jurisdiction of the court.

(5) The district judge who issued the order shall be notified by the applicant, in writing, within ten days after the mobile tracking device has been activated in place on or within the vehicle, container, or item. If no notice is received within ten days after issuance of the order, the order shall be returned to the district judge to be recalled.

(6) For the purpose of placing a mobile tracking device, entry upon private property, the passenger compartment of a vehicle, or any other area subject to a reasonable expectation of privacy is prohibited unless the applicant first obtains consent or authority for such an entry

pursuant to the provisions of Title 77, Chapter 23, Search and Administrative Warrants.

(7) The order authorizing use of a mobile tracking device shall expire 60 days after the date the mobile tracking device was activated in place. For good cause shown, the district judge may grant an extension for an additional 60-day period.

(8) ~~[Nothing in this part shall]~~ This part does not prohibit [a] any person ~~[other than]~~, whether or not the person is an investigative or law enforcement officer[;] as defined in Subsection 77-23a-3(11), from installing and using a mobile tracking device upon or with property belonging to and under the lawful dominion and control of that person.