

1 **PROPERTY TRACKING AMENDMENTS**

2 2005 GENERAL SESSION

3 STATE OF UTAH

4 **Sponsor: Paul Ray**

5

6 **LONG TITLE**

7 **General Description:**

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

10 **Highlighted Provisions:**

11 This bill:

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

15 **Monies Appropriated in this Bill:**

16 None

17 **Other Special Clauses:**

18 None

19 **Utah Code Sections Affected:**

20 AMENDS:

21 **77-23a-15.5**, as enacted by Chapter 201, Laws of Utah 1994

22

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

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

25 **77-23a-15.5. Mobile tracking device authorization.**

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



28 a person or an object.

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

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

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

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

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

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

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

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

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

54 (6) For the purpose of placing a mobile tracking device, entry upon private property,
55 the passenger compartment of a vehicle, or any other area subject to a reasonable expectation
56 of privacy is prohibited unless the applicant first obtains consent or authority for such an entry
57 pursuant to the provisions of Title 77, Chapter 23, Search and Administrative Warrants.

58 (7) The order authorizing use of a mobile tracking device shall expire 60 days after the

59 date the mobile tracking device was activated in place. For good cause shown, the district judge
60 may grant an extension for an additional 60-day period.

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

Legislative Review Note
as of 1-17-05 5:57 PM

Based on a limited legal review, this legislation has not been determined to have a high probability of being held unconstitutional.

Office of Legislative Research and General Counsel

Fiscal Note
Bill Number HB0215

Property Tracking Amendments

26-Jan-05

7:24 AM

State Impact

No fiscal impact.

Individual and Business Impact

No fiscal impact.

Office of the Legislative Fiscal Analyst