

MOBILE TRACKING DEVICES

2011 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Derek E. Brown

Senate Sponsor: _____

LONG TITLE

General Description:

This bill allows for the installation of mobile tracking devices.

Highlighted Provisions:

This bill:

▶ allows a law enforcement officer to install a mobile tracking device with the consent of a judge;

▶ requires a law enforcement officer to obtain authorization for the installation of a mobile tracking device within a reasonable time after installation if prior authorization was not obtained;

▶ requires the court to be notified when a mobile tracking device is installed pursuant to a court order; and

▶ provides that the authorization to install a mobile tracking device expires 60 days after installation unless extended by the court.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

77-23a-15.5, as last amended by Laws of Utah 2007, Chapter 153



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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"]~~:

(a) "Judge" means a judge of any court of the state, including a magistrate.

(b) "Law enforcement officer" means any officer of the state or of a political subdivision, who by law may conduct investigations of or make arrests for criminal offenses, or any federal officer as defined in Section 53-13-106, and any attorney authorized by law to prosecute or participate in the prosecution of these offenses.

(c) "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]~~ A 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]~~ shall be made in writing or through the statewide electronic warrant system 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]~~ shall 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 (2), the court, if it finds that the certification and statement required by Subsection (3) have been made in the application,

59 may enter an ex parte order authorizing the installation and use of a mobile tracking device.
60 The order may authorize the use of the device within the jurisdiction of the court and outside
61 that jurisdiction but within the state if the device is installed within the jurisdiction of the court.

62 (5) Upon a showing in the application that exigent circumstances existed at the time of
63 actual installation that precluded obtaining an order through application prior to installation,
64 the court order shall authorize the continued use of the mobile tracking device for the
65 remaining period permitted under Subsection (8), effective from the date of actual installation.
66 The showing and application shall be completed within a reasonable time after actual
67 installation, and prior to the notice of installation required in Subsection (6).

68 [~~(5)~~] (6) The district judge who issued the order shall be notified by the applicant, in
69 writing, or through the statewide electronic warrant system used for the initial application,
70 within 10 days after the mobile tracking device has been activated in place on or within the
71 vehicle, container, or item. If no notice is received within 10 days after issuance of the order,
72 the order [~~shall be returned to the district judge to be recalled~~] expires.

73 [~~(6)~~] (7) For the purpose of placing a mobile tracking device, entry upon private
74 property, the passenger compartment of a vehicle, or any other area subject to a reasonable
75 expectation of privacy is prohibited unless the applicant first obtains consent or authority for
76 such an entry pursuant to Utah Rules of Criminal Procedure.

77 [~~(7)~~] (8) The order authorizing use of a mobile tracking device shall expire 60 days
78 after the date the mobile tracking device was activated in place. For good cause shown, the
79 [~~district~~] judge may grant an extension for an additional 60-day period.

80 [~~(8)~~] (9) This part does not prohibit any person, whether or not the person is an
81 investigative or law enforcement officer as defined in Subsection 77-23a-3(11), from installing
82 and using a mobile tracking device upon or with property belonging to and under the lawful
83 dominion and control of that person.

Legislative Review Note
as of 2-8-11 6:25 PM

Office of Legislative Research and General Counsel

FISCAL NOTE

H.B. 154

SHORT TITLE: **Mobile Tracking Devices**

SPONSOR: **Brown, D.**

2011 GENERAL SESSION, STATE OF UTAH

STATE GOVERNMENT (UCA 36-12-13(2)(b))

Enactment of this bill likely will not materially impact the state budget.

LOCAL GOVERNMENTS (UCA 36-12-13(2)(c))

Enactment of this bill likely will not result in direct, measurable costs for local governments.

DIRECT EXPENDITURES BY UTAH RESIDENTS AND BUSINESSES (UCA 36-12-13(2)(d))

Enactment of this bill likely will not result in direct, measurable expenditures by Utah residents or businesses.