

**Representative Lee B. Perry** proposes the following substitute bill:

**UNLAWFUL INSTALLATION OF A TRACKING DEVICE**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Marie H. Poulson**

Senate Sponsor: \_\_\_\_\_

---

---

**LONG TITLE**

**General Description:**

This bill imposes criminal penalties for installing a tracking device without proper authorization.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ makes it a class A misdemeanor for a person to unlawfully install a tracking device;
- ▶ describes the circumstances under which a person may lawfully install a tracking device; and
- ▶ describes the circumstances under which a peace officer is not governed under the provisions of this bill.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**76-9-408**, Utah Code Annotated 1953



26  
27  
28  
29  
30  
31  
32  
33  
34  
35  
36  
37  
38  
39  
40  
41  
42  
43  
44  
45  
46  
47  
48  
49  
50  
51  
52  
53  
54  
55  
56

---

---

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

Section 1. Section **76-9-408** is enacted to read:

**76-9-408. Unlawful installation of a tracking device.**

(1) As used in this section:

(a) "Motor vehicle" means the same as that term is defined in Subsection

[41-12a-103\(4\)](#).

(b) "Private investigator" means an individual who is:

(i) licensed as a private investigator under Title 53, Chapter 9, Private Investigator

Regulation Act; and

(ii) acting in the capacity of a private investigator.

(c) "Protective order" means a protective order or a restraining order issued by a court.

(d) "Tracking device" means a device that reveals the device's location or movement by the transmission of an electronic signal.

(2) Except as provided in Subsections (3) or (4), a person is guilty of unlawful installation of a tracking device if the person knowingly installs, or directs another to install, a tracking device on a motor vehicle owned or leased by another person.

(3) A person is not guilty of unlawful installation of a tracking device if the person installs the tracking device on a motor vehicle:

(a) (i) with the consent of the owner or lessee of the motor vehicle; or

(ii) if the person is a private investigator acting in the capacity of a private investigator, with the written consent of the owner or lessee of the motor vehicle; or

(b) pursuant to a court order.

(4) A private investigator, acting in the capacity of a private investigator, is not guilty of unlawful installation of a tracking device if:

(a) the private investigator installs a tracking device on the motor vehicle for a purpose relating to:

(i) a court or arbitral proceeding; or

(ii) an investigation that the private investigator reasonably believes may result in civil litigation or criminal charges; and

(b) the owner or lessee of the vehicle is not under the protection of a protective order.

57 (5) Unlawful installation of a tracking device is a class A misdemeanor.

58 (6) Before installing a tracking device on a motor vehicle under Subsection (4), a  
59 private investigator shall request confirmation, from a state entity with access to updated  
60 protective order records, that the owner or lessee of the vehicle is not under the protection of a  
61 protective order.

62 (7) On request from a licensed private investigator, a state entity, including a law  
63 enforcement agency, with access to protective order records shall confirm or deny the existence  
64 of a protective order, disclosing only whether an individual named by the private investigator is  
65 under the protection of a protective order issued in any jurisdiction.

66 (8) A private investigator may not disclose the information obtained under Subsection  
67 (7) to any person, except as permitted by law.

68 (9) On request from the Bureau of Criminal Identification, a private investigator who  
69 installs a tracking device on a motor vehicle shall disclose the purpose of the tracking device to  
70 the Bureau of Criminal Identification.

71 (10) This section does not apply to a peace officer, acting in the peace officer's official  
72 capacity, who installs a tracking device on a motor vehicle in the course of a criminal  
73 investigation or pursuant to a court order.