

HB0223S01 compared with HB0223

~~text~~ shows text that was in HB0223 but was deleted in HB0223S01.

Inserted text shows text that was not in HB0223 but was inserted into HB0223S01.

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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 ~~for licensed private investigator~~ 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.

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Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

76-9-408, Utah Code Annotated 1953

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.

(~~f~~~~c~~~~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 ~~f~~Subsection~~f~~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;~~f~~

~~(b) under the direction of an individual whom the person reasonably believes to be a peace officer authorized to install the tracking device in the course of a criminal investigation~~

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or pursuant to a court order; or

~~(c)~~ 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.

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

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

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

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

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

~~(5)~~10) This section does not apply to a peace officer, acting in the peace officer's official capacity, who installs a tracking device on a motor vehicle in the course of a criminal investigation or pursuant to a court order.