

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



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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, a stalking injunction, or a restraining order issued by a court](#).

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

(ii) ["Tracking device" does not include location technology installed on a vehicle by the vehicle manufacturer of a commercial vehicle dealer that transmits electronic signals for purposes of data collection, if the data collection is anonymized](#).

(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:](#)

- 57 (i) a court or arbitral proceeding; or
58 (ii) an investigation of a matter that has a substantial likelihood of resulting in civil
59 litigation or criminal charges; and
60 (b) the owner or lessee of the vehicle is not under the protection of a protective order.
61 (5) Unlawful installation of a tracking device is a class A misdemeanor.
62 (6) Before installing a tracking device on a motor vehicle under Subsection (4), a
63 private investigator shall request confirmation, from a state entity with access to updated
64 protective order records, that the owner or lessee of the vehicle is not under the protection of a
65 protective order.
66 (7) On request from a licensed private investigator, a state entity, including a law
67 enforcement agency, with access to protective order records shall confirm or deny the existence
68 of a protective order, disclosing only whether an individual named by the private investigator is
69 under the protection of a protective order issued in any jurisdiction.
70 (8) A private investigator may not disclose the information obtained under Subsection
71 (7) to any person, except as permitted by law.
72 (9) Any person may file a complaint with the Bureau of Criminal Identification if the
73 person believes a tracking device has been installed on the person's vehicle in violation of this
74 Section.
75 (10) Upon receiving a complaint under Subsection (9), or for any other investigatory
76 purpose, the Bureau of Criminal Identification may require a private investigator that installed
77 a tracking device on a vehicle to disclose the purpose of the installed tracking device.
78 (11) This section does not apply to a peace officer, acting in the peace officer's official
79 capacity, who installs a tracking device on a motor vehicle in the course of a criminal
80 investigation or pursuant to a court order.