

## HB0223S02 compared with HB0223S01

~~deleted text~~ shows text that was in HB0223S01 but was deleted in HB0223S02.

Inserted text shows text that was not in HB0223S01 but was inserted into HB0223S02.

**DISCLAIMER:** This document is provided to assist you in your comparison of the two bills. Sometimes this automated comparison will NOT be completely accurate. Therefore, you need to read the actual bills. This automatically generated document could contain inaccuracies caused by: limitations of the compare program; bad input data; or other causes.

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:

## HB0223S02 compared with HB0223S01

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, 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,

## HB0223S02 compared with HB0223S01

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 of a matter that ~~the private investigator reasonably believes may result~~ has a substantial likelihood of resulting 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~~ Any person may file a complaint with the Bureau of Criminal Identification ~~, a private investigator who installs~~ if the person believes a tracking device ~~for a motor vehicle shall disclose the purpose of the tracking device to~~ has been installed on the person's vehicle in violation of this Section.

(10) Upon receiving a complaint under Subsection (9), or for any other investigatory purpose, the Bureau of Criminal Identification may require a private investigator that installed a tracking device on a vehicle to disclose the purpose of the installed tracking device.

~~(10)~~ (11) 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.

**HB0223S02 compared with HB0223S01**