

## HB0223S05 compared with HB0223S04

~~text~~ shows text that was in HB0223S04 but was deleted in HB0223S05.

Inserted text shows text that was not in HB0223S04 but was inserted into HB0223S05.

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Senator ~~Todd Weiler~~Kirk A. Cullimore proposes the following substitute bill:

### UNLAWFUL INSTALLATION OF A TRACKING DEVICE

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Marie H. Poulson**

Senate Sponsor: Kirk A. Cullimore

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#### 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; and
- ▶ describes the circumstances under which a peace officer is not governed under the provisions of this bill.

##### Money Appropriated in this Bill:

None

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### 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, stalking injunction, or restraining order issued by a court of any jurisdiction.

(d) (i) "Tracking device" means a device used for the primary purpose of revealing the device's location or movement by the transmission or recording of an electronic signal.

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

(2) Except as provided in Subsection (3), 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, without the permission of the owner or ~~fessor~~lessee of the vehicle.

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

(a) (i) is a licensed private investigator installing the tracking device for a legitimate business purpose; and

(ii) installs the tracking device on a motor vehicle that is not:

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(A) owned or leased by an individual under the protection of a protective order; or  
(B) operated by an individual under the protection of a protective order who resides with, or is an immediate family member of, the owner or ~~flessor~~ lessee of the motor vehicle;

or

(b) installs the tracking device pursuant to a court order.

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

(5) 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.

(6) Before installing a tracking device on a motor vehicle under Subsection (3), a private investigator shall request confirmation from a state entity with access to updated protective order records, that:

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

and

(b) an individual who resides with, or is an immediate family member of, the owner or lessee of the motor 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.